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ABSTRACT

This study examined the effectiveness of mediation (in comparison with due process hearings) in resolving disputes between parents of children with disabilities and school districts. Respondents (from 10 states) included 35 parents who had taken part in a mediation procedure only; 29 in a mediation procedure prior to a due process hearing; and 18 in a due process hearing only. The "Parent Satisfaction Survey" was developed and used to assess parental satisfaction with either the due process hearing or the mediation procedure as well as the outcome of these processes in respect to specific variables (such as the nature of the conflict, the nature and severity of the child's handicapping condition, the child's age, and the socioeconomic status of the parents). Results indicated that parents who took part in the mediation procedure reported significantly lower ratings of emotional cost to both parents and families. However, in relation to the other variables under study, there were no significant differences indicated between parents in the two groups. A systematic policy analysis of both mediation and due process conflict resolution processes resulted in recommendations for: (1) the development and maintenance of collegial relationships between parents and the schools; and (2) that a mediation "model" be established based on effective methods of conflict resolution. Appendices include project forms and letters and the Parent Satisfaction Survey instrument. (Approximately 100 references) (DB)

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Evaluating the Effectiveness of Mediation as an Alternative to the Due Process Theory in Special Education
Final Report

Department of Special Education
University of Kansas
Lawrence, KS
August 31, 1987

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Project Period: 9/1/86 through 8/31/87

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AESTRACT

The due process hearing historically has been the major avenue utilized by parents and school districts in the attempt to resolve conflicts that arise in relation to the provision of an appropriate education for the child with a disability. While some positive outcomes have been associated with participation in the due process hearing, critical negative effects have also been cited in the literature especially in relation to the conciliatory purposes of the due process procedural safeguards. Because of this the suggestion has been forwarded to investigate the use of consensual methods of conflict resolution as an alternative to the sole reliance on the due process hearing with the mediation alternative most often suggested.

The purpose of this research was to provide essential empirical data related to the effectiveness of mediation as an alternative method of conflict resolution. In order to achieve this purpose, the present research utilized the Parent Satisfaction Survey to measure parental satisfaction with both the processes of the due process hearing and the mediation procedure and the outcome(s) of these processes in respect to specific variables.

Research results indicated that parents who took part in the mediation procedure reported significantly lower ratings of emotional cost to both parents and families. However in relation to the other variables under study, there were no significant differences indicated between parents in the groups under study.

A policy analysis based on Gallagher's model of policy implementation was carried out and recommendations for future action are forwarded based on the review of the literature, the results of the present survey and the results of the policy analysis.

CHAPTER I

INTRODUCTION

On November 29, 1975, Congress, pressured by the demands of parents, professional and advocacy groups, and the federal judiciary, enacted the Education for All Handicapped Children Act, P.L. 94-142. Collectively the federal laws, as amended are called the EHA and will be referred to as such in this document. This Act built upon previous legislation, such as the Educational Amendments of 1974, P. L. 93-380, and the Massachusetts' Chapter 766. It is essentially an enabling statute that provides federal funds and outlines procedures to assist states in meeting their responsibilities for educating children with disabilities.

The EHA, as amended by P. L. 94-142, not only requires each state to ensure that the rights of children with disabilities and their parents are protected with respect to a free appropriate public education, but also mandates the states to include in their procedures adequate steps for the due process protection of this right. Both the Act and the federal regulations covering its implementation have been recognized as the most far-reaching and comprehensive statement of due process rights pertaining to students with disabilities (State of Florida, 1982).

These due process procedural safeguards were included in the EHA as both a compliance mechanism (Neal & Kirp, 1985; Turnbull, 1986) and a means of harmonizing the separate but similar interests of educators and parents (Kirp, 1976; Turnbull, 1986). Thus there are two major purposes of due process, accountability and conciliation. While the author recognizes that accountability is an

extremely critical issue (and one that is discussed in this document), in regards to this research its role is secondary to the issue of conciliation.

These due process procedural safeguards are based on the Fifth and Fourteenth Amendments to the Federal Constitution and are required in order to assure that individuals receive fair treatment according to specific procedures before the denial of important interests. In this case, the interest is education. The EHA requires schools to offer parents the opportunity to be directly involved in education of their children, from the child's initial evaluation onward. If at any point parents are dissatisfied with the school district's planning or provision of special education services, they have the right to contest the plan (Sec. 1415 (b) (1) (2)).

The specific due process procedures available to parents and children in any matter concerning a child's identification, evaluation, or placement must include:

a) prior notice to parents of any change in their child's program, and written explanation, in their primary language, of the procedures to be followed in affecting that change;

b) access to relevant school records;

c) an opportunity to obtain in independent evaluation of the child's special needs;

d) the right of a child to remain in his/her current placement or, if trying to gain initial admission to school, to remain in the regular school program until the due process proceedings are completed;

e) the designation of a surrogate parent to use the procedures outlined above on behalf of children who are wards of the state or whose parents or guardians are unknown or unavailable;

f) the opportunity of an impartial due process hearing which must be conducted by the LEA or SEA, but in no

case by an employee involved in the education of the child (Sec. 1415 (b) (1) (2)).

This opportunity provided parents to challenge decisions by way of a due process hearing is a critical element of these due process procedural safeguards. Also, stemming from two landmark cases, Mills v. Board of Education of the District of Columbia (1972) and Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania (1972), specific procedural protections related to the due process hearing are embodied in the EHA.

- notice of the proposed action
- the right to a hearing prior to final action
- the right to counsel at such a hearing
- the right to present evidence
- the right to full access to relevant school records
- the right to compel attendance, or to confront or cross-examine officials or employees who might have evidence concerning the basis of the proposed action
- the right to an independent evaluation
- the right to decide on an open or closed hearing
- the right to an impartial hearing officer
- the right to obtain a transcript of the hearing and a written decision by the hearing officer
- the right to appeal the hearing decision to the SEA, and, if still dissatisfied,
- the right to appeal the SEA ruling in state or federal court (Budoff& Orenstein, 1982; Saranson & Doris, 1979; Turnbull, 1986).

Statement of the Problem

While such due process procedural safeguards were meant to be one means of harmonizing the separate, but

similar, interests of educators and parents (Kirp, 1976; Turnbull, 1986), all too often these procedures have led to adversarial confrontations between the parties (Budoff, 1979; Budoff & Orenstein, 1981; 1982; Fiedler, 1985; Mitchell, 1976; Strickland, 1982; Weisenstein & Pelz, 1986; Yoshida, 1979, 1982). The literature indicates that the due process hearing model is especially remiss at accomplishing the harmonizing purposes for which it was designed (Budoff & Orenstein, 1981; Strickland, 1982).

Due process hearings have been identified as being adversarial in nature (Gallant, 1982, Strickland, 1982; Weisenstein & Pelz, 1986), with the procedure seen to inflame rather than reduce antagonism and to lead to alienation of the contending parties. In a 1976 study conducted by Budoff, Orenstein, and Kotin, the massive psychic costs associated with participation in the due process hearing were revealed. Forty-five percent of the parents surveyed reported that the experience was so traumatic that, under no circumstances, would they utilize this method of conflict resolution again.

Besides the high emotional and psychic costs associated with participation in a due process hearing, preparing for and attending such a hearing is also financially taxing for both parents and school districts (Budoff & Orenstein, 1981, 1982; Buss, Kirp, & Kuriloff, 1975; Fiedler, 1985; Henderson & Hage, 1979; Kammerlohn, Henderson, & Rock, 1983; NASDSE, 1978; Weisenstein & Pelz, 1986; Yoshida, 1979). Also, taking into consideration the facts that many attorneys now specialize in this area of the law, that many school districts prepare more carefully, and that the cost of lost work time for both parties is high, it may presently be, as Budoff and Orenstein (1982) suggest, that financial costs are considerably higher than in previous years.

In addition, Ekstrand and Edmister (1984) suggest that many parents may be intimidated by the thought of a formal hearing and may be reluctant to confront individuals who have been providing necessary services to their children. It is also reported that these adversarial hearings place an emotional strain on school staff who must testify and be cross-examined (Ekstrand and Edmister, 1984; Nissen, 1984; Weisenstein & Pelz, 1986). Administrators often feel their professional judgments have been questioned and that their relationships with parents have been severely impaired (Budoff & Orenstein, 1981). As Weisenstein & Pelz (1986) suggest, educators find themselves cast in the role of villains and the application of constant adversarial pressure creates in some educators an attitude designed to protect the system's rather than the child's best interests (Jacobs, 1979).

Due process hearings, by their very nature, emphasize the diagreements between parents and the school district (Gallant, 1981). This inability to resolve an issue in a mutually agreeable manner maintains patterns of negative relationships that may adversely affect the long-term development of a child with a disability (Budoff, 1979; Budoff & Orenstein, 1981; Fiedler, 1985; Nissen, 1984; Strickland, 1982; Weisenstein & Pelz, 1986). Finally, it appears that the due process hearing system has been primarily accessible to upper and upper-middle class parents (Budoff & Orenstein, 1981; Budoff, Orenstein, & Abramson, 1981; Fiedler, 1985; Lay, 1977; NASDSE, 1978; Nissen, 1984; Strickland, 1982) and, as a result of this, the due process rights of parents from lower socioeconomic backgrounds may be abridged (Salend & Zirkel, 1984). This fact is especially critical since it has been reported that there is often a relationship between socio-economic status and placement in special education programs (Buss, Kirp, & Kuriloff, 1975; Nissen, 1984).

Because of these problems and others inherent in the due process hearing model, alternative forms of conflict resolution have been suggested in recent years. The Sixth Annual Report to Congress on P. L. 94-142 (OSERS, 1984) indicates that many states have adopted mediation or other informal dispute resolution procedures. The EHA, itself, does not mention mediation as a means of resolving complaints, nor do the regulations promulgated by the Department of Education to implement the Act. However, a comment to the regulation states that:

> Many states have pointed to the success of using mediation as an intervening step prior to conducting a formal due process hearing. Although the process of mediation is not required by statute or these regulations, an agency may wish to suggest mediation in disputes concerning the identification, evaluation, and educational placement of handicapped children. Mediations have been conducted by members of state educational agencies,or local education agency personnel who were not previously involved in the particular case. In many cases, mediation leads to the resolution of differences between parents and agencies without the development of an adversarial relationship and with minimal emotional stress. However, mediation may not be used to deny or delay parents rights under this subpart (Comment following 34 C. F. R. Sec. 300.506).

Neither the regulations nor these comments provide any substantive or procedural guidelines for mediation. Interviews with officials from the United States Department of Education indicate that this department maintains a hands-off posture with respect to mediation, with their own concern being that due process rights are neither abridged nor impeded (Singer & Nace, 1985).

The development of alternative dispute resolution procedures and processes has been a growth industry in a variety of areas ranging from family law to environmental issues to criminal justice (Marks, Johnson, & Szanton, 1984; Metaxas, 1986). The successful use of mediation as an alternative to more adversarial proceedings has been reported consistently in the legal literature (Alper & Nichols, 1981; Folberg & Taylor, 1984; Murray, 1984; Pearson & Thoennes, 1984; Snyder, 1984).

One of the many similar definitions of mediation is that offered by Folberg and Taylor (1984) who define mediation as:

> an intervention that is intended to resolve disputes and manage conflicts by facilitating decision making; a process that emphasizes the participants' own responsibility for making decisions that affect their lives, a self-empowering process (p.8).

Ekstrand and Edmister (1984) and Turnbull and Strickland (1981) suggest that any dispute concerning the education of a student with a disability can be a proper subject for mediation. Yoshida (1982) also suggests the use of mediation as a possible alternative method of conflict resolution in special education but states that it is critical that the outcomes of mediation be defined. The most obvious outcomes to be studied, according to Nissen (1984) and Yoshida (1982), are: 1) whether the mediated solution is appropriate for the student, and 2) whether the mediation reduces the emotional and financial costs to both parents and school personnel.

In 1985, Singer and Nace studied satisfaction with the mediation process in both the states of California and Massachusetts. In the course of this research, a variety of individuals involved in the mediation process (i.e., state and local education officials, mediators, parents, legal advocates, and attorneys) were interviewed. Results of

these interviews indicate that satisfaction with the process of mediation is both broad and deep in each of these states.

At this point in time, while there has been a great deal written about the possible benefits of mediation as an alternative to the due process hearing in special education. There is, however, a dearth of empirical evidence available as to its effectiveness in the field of special education. This is an especially crucial factor since questions are now arising as to the true effectiveness of alternative methods of conflict resolution in a variety of context areas (Marks, Johnson, & Szanton, 1984; Metaxas, 1986; Rodgers, 1986).

Purpose and Definition of Variables

The major purpose of this research project is to provide essential empirical data related to the effectiveness of mediation as an alternative method of conflict resolution in special education disputes. It is intended that the research:

1) build on preliminary efforts in this area

2) investigate mediation in relation to its effectiveness as a process which:

a) maintains the decision making power with the parties involved in the conflict, allowing them to reach a mutual solution to a mutual problem.

b) fosters the development of communication and problem-solving skills necessary to maintain a positive working relationship supported by the mutual goal of appropriate education for the child.

c) affords the opportunity to exercise due process rights for reasonable financial and emotional costs.

d) provides accessibility to all parents of children with disabilities.

Additionally, the purpose of this research is to extend the generalizability of the results of research in the area

through both the provision and dissemination of empirical evidence.

In an attempt to achieve these purposes, the research utilized the Parent Satisfaction Survey to investigate the relationship between parental satisfaction with the processes of the due process hearing and mediation, as well as parental satisfaction with the outcome(s) of these processes. The strength of the relationship was measured with respect to specific variables determined, from the review of the literature, to be applicable to the issues of procedure effectiveness, satisfaction, and accessibility.

The major independent variables ocnsidered were:

- conflict resolution procedure utilized;
- the nature of the conflict which led to the development of a problem between the parents and the schools;
- nature/severity of the child's handicapping condition;
- age of the child;
- socio-economic status of the parents/family and
- interpersonal relationships between the child/parents and a variety of school personnel (classroom teacher, related services personnel, and school administration) before, during and after taking part in one of the methods of conflict resolution.

Conflict Resolution Procedure: A number of studies (Budoff & Orenstein, 1981, 1982; Fiedler, 1985; Strickland, 1982; Yoshida, 1982) indicate that the due process hearing model is not living up to its potential as a method of conflict resolution. In addition, the recent literature indicates a growing interest in alternative methods of conflict resolution in special education (Budoff & Orenstein, 1982; Fiedler, 1985; NASDSE, 1978, 1982; OSERS,

1984; Strickland, 1982; Turnbull & Barber, 1984; Yoshida, 1982), and the effectiveness of such alternatives (Ekstrand & Edmister, 1984; Nissen, 1984; Singer & Nace, 1985).

Nature of the Issue: The literature, to date, appears to indicate that placement disputes are the most often cited reason for the initiation of due process procedures (Brady, 1984; Budoff & Orenstein, 1981; Kammerlohr, Henderson & Rock, 1983; NASDSE, 1978; Strickland, 1982; Turnbull,1982, 1984). It may well be, since the majority of research findings reported in several of these studies were collected in the mid to late seventies, that, as more wide-reaching programs are provided by the public schools to a broader spectrum of students with handicapping conditions, the nature of the conflicts leading to the utilization of due process may differ.

Nature/Severity of Handicapping Condition/Age of Student: According to the available data, parents of students with learning disabilities (Budoff & Orenstein, 1982) or behavior disorders (Kammerlohr, Henderson & Rock, 1983) were more likely to make use of due process conflict resolution procedures. Age was also included as a variable in this research because it was included in a previous Budoff and Orenstein (1982) study which dealt with the due process hearing model but did not collect data on the mediation procedure. Age was additionally included in an attempt to identify if parents of pre-school, elementary, or secondary students were more likely to express satisfaction or dissatisfaction with school decisions in light of more available pre-school services and the growing demand for effective transition programs for post-secondary students (Bellamy, 1983; Swan, 1981; Will, 1984).

Socio-economic Status: There has been a tendency for upper and upper-middle class parents to use due process procedures more readily than other socio-economic groups

(Department of Health, Education & Welfare, 1978; NASDSE, 1978; Salend & Zirkel, 1984; Strickland, 1982). This limited use may be due to the high costs involved in preparing and participating in a due process hearing, as well as to the limited availability of time, money, and resources of both lower income and minority group parents (Strickland, 1982). It may be that the purported lower financial and emotional costs related to the use of a mediation alternative (Alper & Nichols, 1981; Folberg & Taylor, 1984; Singer & Nace, 1985) may extend the accessiblity due process procedures to lower income families.

Interpersonal Relationships: Parents of students with disabilities and the schools are necessarily forced into long-term relationships (Singer & Nace, 1985). Because of this and because of the many problems associated with parent participation on the part of both parents and schools (Yoshida, 1982) interpersonal relationships appeared to be a variable that may indicate not only why parents make the decision to utilize due process procedures but also which procedures they utilize (OSERS, 1986). Mitchell (1976) and Strickland (1982) also suggest the importance of studying parent-school interpersonal relationships during and after the utilization of the due process hearing or the mediation procedure.

The two major hypothesis tested in relation to these variables were:

> There is no significant relationship between satisfaction with the process utilized and each of the independent variables either alone or as a composite.
>
> There is no significant relationship between satisfaction with the outcome(s) of the process

utilized and each of the independent variables alone or as a composite.

Additional variables also investigated in this research are related to the acquisition and utilization of outside support, as well as financial and emotional costs incurred through participation in a conflict resolution procedure.

Policy Implications

In response to the demand for research in the area of conflict resolution procedures in special education, it was intended that this study:

1. build on preliminary efforts in the area; and
2. investigate mediation in relation to its effectiveness as a procedure which:

   a. maintains the decision making power with the parties involved in the conflict allowing them to reach a mutual solution to a mutual problem;

   b. fosters the development of communication and problem solving skills necessary to maintain a positive working relationship supported by the mutual goal of appropriate education for the child;

   c. affords the opportunity to exercise due process rights for reasonable financial and emotional costs;

   d. provides accessibility of conflict resolution procedures to all parents of children with disabilities.

It is essential to keep in mind that while this research was designed to measure the effectiveness of mediation as an alternative to the sole use of the due process hearing, a comparison of parental satisfaction with both these processes was the major measure of procedural effectiveness. No direct effort was made to determine if

mediation either secures the substantive rights of the child provided by the EHA, or if it does so in a manner more or less effective than the due process hearing. The implications of these issues are discussed more fully in Chapter Five.

Both this research and the dissemination of the results of this research are intended to encourage the appropriate institutionalization of mediation as an alternative to the due process hearing in special education, as well as encourage further research in areas identified as critical to the effective utilization of the due process procedural safeguards provided through the EHA.

CHAPTER II
REVIEW OF THE LITERATURE

Introduction

The passage of the Education of All Handicapped Children Act (P.L. 94-142) consistently has been cited as one of the more significant events in the history of American education. The Act has been described as a Bill of Rights for the Handicapped, one that has the intention of bringing to an end the treatment as second-class citizens of children with disabilities (Goodman, 1976). It was designed to rectify the prevailing inequities that had resulted in the de facto denial of the " right to education" to individuals with disabilities. The signing into law of this Act was the culmination of many years of federal activity and Congressional frustration concerning the accessibility of special education services in the nation's public schools (Braddock 1986; Turnbull, 1986; Yanok, 1986).

The purpose of the Act is to assure that all children with disabilities have available to them... "a free appropriate public education which emphasizes special education and related services designed to meet their unique needs" (Sec. 1400,(c)).

In order to guarantee that these educational rights are more than an empty promise, specific due process procedural safeguards have been included as essential components of this Act. These due process safeguards are mandated in the purpose of the Act and "assure that the rights of handicapped children and their parents or guardians are protected." (Sec. 1400, (c)). A critical element of these due process

safeguards is the opportunity given parents to challenge the decisions of the schools by way of a due process hearing.

Ideally, these due process safeguards, including the due process hearing, were designed to provide both a compliance mechanism (Kirp & Neal, 1985; Turnbull, 1986) and to provide parents and school personnel the opportunity to develop collegial, sharing, and mutually supportive relationships on behalf of the child with a disability (Budoff & Orenstein, 1982; Turnbull, 1986).

Too often, however, it has been reported that these procedures lead to an adversarial confrontation between parents and educators, one that may foster the deterioration of parent-school relations (Budoff, 1979; Fiedler, 1985; Mitchell, 1976; Yoshida, 1982). Because of the difficulties associated with the use of the formal due process hearing model as the sole method of conflict resolution, alternative methods of dispute resolution have been suggested, with the major emphasis placed on the use of the mediation procedure (Ekstrand & Edmister, 1983; Fiedler, 1985; Nissen, 1984; OSERS, 1934; Turnbull & Barber, 1984).

This chapter reviews the literature on the establishment and effectiveness of the due process procedural safeguards of the EHA as an instrument of conciliation and reconciliation. Special emphasis is placed on the effectiveness of the traditional conflict resolution procedure, the due process hearing, as contrasted with that of the alternative method of mediation in providing satisfaction to parents.

Specific sections in this chapter review:

1. The provision of educational equity through the EHA. In relation to the EHA, educational equity is defined as access to different resources for different purposes by children with disabilities. In this issue the disability of the child is a distinction that justifies a different approach to educational equity (Turnbull, 1986).

2. The provision of specific due process procedural safeguards in order to prevent the child or his/her parents from being deprived of rights assured to them under the EHA;

3. The provision of the due process hearing model as a means of conflict resolution and the effectiveness of, and satisfaction with, this model;

4. The provision of an alternative method of conflict resolution, specifically mediation and the effectiveness of, and satisfaction with, this method.

Basic Provisions of P.L. 94-142

Although the federal constitution does not explicitly contain the word "education," interpretation of the constitution by the judiciary has had an unquestionable impact on educational policy development (La Morte, 1982). Of particular interest is the judicial interpretation of the Fourteenth Amendment, that provides:

> "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person in its jurisdiction equal protection of the law."

The concepts of due process and equal protection inherent in the Fourteenth Amendment stem from a desire for fairness and equal application of the law.

From an educational standpoint, the equal protection clause represents the legal basis for prohibiting unreasonable classification (LaMorte, 1982; Turnbull, 1986). This provision has had a significant effect on influencing

policy in American public education. Although it is possible for some types of classification to be imbedded in laws or practices, it is required, by law, that arbitrariness not play a role.

A benchmark case in the education arena is Brown v. Board of Education of Topeka (1954, U.S. 483). Brown dealt with the issue of equal opportunity for an education and held that dejure segregation violated the equal protection clause of the Fourteenth Amendment. It thereby established a precedent for future cases in relation to the equal opportunity to benefit from public education or other publicly supported services. Chief Justice Warren, in the Court's opinion, stated:

> Today education is perhaps the most important function of state and local governments...It is required in the performance of our most basic public responsibilities...It is the very foundation of good citizenship...Today it is the principle instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him adjust normally to his enviornment. In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education...Such an opportunity where the state has undertaken to provide it, is a right that must be made available to all on equal terms. (Emphasis added)

The Court in Brown demonstrated that the judiciary was willing to confront issues that the other branches of government had consistently avoided (LaMorte, 1982; Turnbull, 1986). This type of action taken by the courts awakened both those individuals who believed they were being denied their

rights due to government action, and those who advocated for individuals who were unable to do so for themselves.

Gilhool (1985) observed that it was no accident that the announcement that each of us is included in the principle of equal citizenship emanated from a case such as Brown, for it is in regard to education that our society has paid most tribute to the ideas of universality.

While Brown established "where" students were to be educated, early special education cases establish "which" students are to be educated and the "terms" in which they are to be educated (Turnbull, 1986).

Two precedent-setting decisions in regard to the lack of equal educational opportunity afforded to children with disabilities were Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania (PARC, 1972), and Mills v. District of Columbia Board of Education (Mills, 1972). Both of these cases led to the not so invisible walls of exclusion being thrown down (Turnbull, 1986; Weintraub & Ballard, 1982), and to the requirement of equal educational opportunity and the affording of specific due process procedural safeguards for children with disabilities and their parents.

Gilhool (1972) suggested that the court decision in the PARC case would mark the beginning of a long line of similar decisions and, as Hudgins and Vacca (1985) report, his judgment was correct. Several cases (involving the District of Columbia and almost every other state), each with the primary purpose of securing for all children with disabilities their constitutionally guaranteed "right to education", were brought in an "avalanche of litgation" (Gilhool, 1972). The Mills decision (1972) expanded and extended the principles established with PARC and constitutionally required what PARC had provided by consent decree only (Hudgins and Vacca, 1985; Palmer, 1983).

The reverberations of these judicial decisions were felt by the other branches of government. State legislatures undertook a flurry of activity to enact statutes guaranteeing specific rights to children with disabilities, and by 1975 all but two states had some type of mandatory legislation (Turnbull, 1986; Weintraub & Ballard, 1982).

In 1976, with the enactment by Congress of the Education for All Handicapped Children Act (P.L. 94-142) that amended and extended the previous Education for the Handicapped Act, the federal government acted to ensure that the right to a free appropriate public education knew no geographical boundaries. With the enactment of P.L. 94-142,(hereinafter the Education of the Handicapped Act and the Education of All Handicapped Children Act are collectively referred to in the body of this paper as the EHA) special education throughout the country was dramatically altered both substantively and procedurally (Singer & Nace, 1985; Turnbull, 1986).

P.L. 94-142 itself has been heralded in a variety of ways. Singer and Nace (1985) refer to it as one of the most significant events in American educational history. Shanker (1977) suggests that it has far reaching consequences for each parent, teacher, and school district in the country, and Goodman (1976) refers to it as a Bill of Rights for the Handicapped. However, Turnbull (1986), Weintraub (1982), and Zettel and Ballard (1979) assert that the Act itself is neither revolutionary in what it requires nor in the role it prescribes for the federal government. What it does, they argue, is represent the continued evolutionary role of federal responsibility and commitment in the provision of equal educational opportunity to vulnerable and/or minority children.

The EHA provides funds and outlines procedures to assist the states in meeting their responsibilities for educating exceptional children. It was passed primarily to prevent the

segregation of children with handicapping conditions and to bring these children who were not being served into the public education system (Illinois State Board of Education, 1985; Slenkovich, 1984). The purpose of the law as stated is:

> To assure that all handicapped children have available to the, within the time periods specified...a free, appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist states and localities to provide for the education for all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children (Sec. 1400, (c)).

The major rights afforded by the EHA can be embodied in six principles which Turnbull (1986) identifies as speaking most directly to the rights of the handicapped child.

1. Zero Reject: The right to education, and the right to a free, appropriate public education.

2. Nondiscriminatory Evaluation: The right to be fairly evaluated so that appropriate educational programs and placements can be achieved.

3. Individual and Appropriate Education: The right to an education that is meaningful and achieved through an Individual Education Plan.

4. Least Restrictive Environment: The right to education in an appropriate and normalized setting.

5. Procedural Due Process: The right to protest, the right to fair procedures and treatment.

6. Participatory Democracy: The right of students, parents and guardians to participate as decisionmakers in the educational process.

The Right to Education: The right to education provisions of the EHA were established to deal directly with the issues of exclusion in both a pure and functional sense. Violations of the equal protection clause of the Fourteenth Amendment had been cited in the major precedent setting cases. The states, in order to receive federal funding, were directed to establish full service goals to provide free appropriate, public education for students with handicapping conditions. Priority areas were established in order to assure educational opportunity for the unserved and the most severely handicapped in each disability category, who traditionally had been underserved (Sec. 1414 (a) (1) (c) (ii)). As defined by the EHA, the term "appropriate" public education means special education and related services that:

a) have been provided at public expense, under public supervision, and without charge;

b) meet the standards of the state education agency;

c) include an appropriate preschool, elementary,or secondary education in the state involved,and

d) are provided in conformity with the individualized education program required under Section 1414 (a) (5) (Sec. 1401, 1401, (18) (a) (b) (d)).

As indicated, legislation stressed the principles that

such cases as PARC (1971), Mills (1972), and LeBanks v. Spears (1973) specified. What must be provided is not only an education but a free, public education (Zettel & Ballard, 1979).

The Right to Nondiscriminatory Evaluation: Turnbull (1986) contends that exclusion from equal education opportunity occurs not only when students are refused admission or placed on waiting lists but also when the education is inadequate or unresponsive to a child's needs or where the program is of such a nature that the child cannot substantially profit and therefore receives few or none of the intended benefits. In this same respect, he also argues that misclassifying students or classifying them inadequately with respect to their handicaps can deny them the right to educational opportunity. The EHA insists that state and local agencies protect the child's right to education by ensuring that:

a) Tests and other evaluation materials are provided and administered in the child's native language or mode of communication; that they have been validated for the purpose used; and that they are administered by trained personnel.

b) Tests and other evaluation materials are to include those designed to assess specific areas of educational need and not merely those designed to provide a general intelligence quotient.

c) Tests are also to be selected and administered with the intent of insuring that the results accurately reflect the child's aptitude or achievement level rather than reflecting the child's impaired sensory,manual, or speaking skills.

d) No single procedure is to be used as the sole criterion for determining an appropriate education for the child.

e) The child is to be assessed in all areas relating to the specific disability (Sec.1412 (5) (c); Turnbull, 1986; Zettel & Ballard, 1979).

The Right to an Appropriate Education: While all of the policy developments involved with the EHA are of major constructive significance, the mandate that all children are entitled to an education appropriate to their needs is possibly the most significant (Zettel & Ballard, 1979). However, the meaning of the phrase "appropriate education" has been a point of conflict since the inception of the law (Turnbull, 1986). According to the decision rendered by the Supreme Court in Board of Education of Hendrik Hudson Central School District v. Rowley (1982), Congress' intent, in reference to appropriate education, was to bring previously excluded children into the public education systems of the states and to require the states to adopt procedures that will result in individual consideration of and beneficial instruction for each child. Additionally, noticeably absent from the language of the EHA itself is any substantive standard prescribing the level of education to be afforded the child (458 U.S. at 189). Therefore, the Court in Rowley concluded that a handicapped child receives an appropriate education if he or she receives personalized instruction with sufficient support services to permit the child to benefit educationally from the instruction, even if the child is not achieving to his or her maximum potential (458 U.S. at 203; Singer & Nace, 1985; Turnbull, 1986).As Bailey and Gunter (1985) and Turnbull (1986) argue, it appears that appropriate education need neither be "ideal instruction" nor the best education possible.

The Rowley decision stressed the principle of comparability, as well as the Court's reliance on professionals and process as the major determinants of an appropriate education (Turnbull, 1986). The Court indicated that the EHA was only designed to provide to children with disabilities the same basic opportunities for a meaningful education as nondisabled children--the principle of comparability. The second principle, professionalism, allowed that individualized education programs, developed by a team of parents and professionals, are presumed to be appropriate (Turnbull, 1986). Finally, the Court affirmed the process definition of appropriate education, apparently in the belief that a fair process will produce an acceptable result (Turnbull, 1986).

The provision an appropriate education is achieved, according to Turnbull (1986), primarily by the device of the individualized education program, the IEP, that is regarded as the centerpiece of the law's effort to insure an appropriate public education (Singer & Nace, 1985; Zettel & Ballard, 1979). Congress defined an individualized education program as follows:

> The term individual education program means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children; the teacher, the parents or guardian of such child; and whenever appropriate such child. Each statement shall include:
>
> a) a statement of the present levels of educational performance of such child;

b) a statement of annual goals, including short term instructional objectives;

c) a statement of the specific educational services to be provided such child, and the extent to which such child will be able to participate in regular educational programs;

d) the projected date for initiation and anticipated duration of such services, and

e) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved (Sec. 1401 (19)).

The Right to Least Restrictive Placement: Turnbull (1986) argues that no requirement of the right to education movement was more likely to "generate heat than light" than the requirement that children with disabilities be educated in the least restrictive program. The concept of least restrictive environment appears to have developed not only from the realization of the insidiousness of the doctrine of separate but equal (Saranson & Doris, 1979) but also in what Zettel and Ballard (1979) refer to as the fundamental ethos of the American people. The EHA requires that:

> ...the state has established procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities are educated with children who are not handicapped, and that special classes, separate schooling, or

> other removal of handicapped children from the regular educational environment occur only when the nature and severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (Sec. 1412 (5) (B)).

Ballard (1978) asserts that it is critical to note that this provision is not a mandate for "mainstreaming," a term never utilized in the legislation. The EHA does not mandate that all children with disabilities be educated in the regular classroom and does not abolish any particular educational environment. But it does mandate that education with non-handicapped children will be the governing objective to the maximum extent appropriate, and that the IEP will be the central management tool utilized in achieving the least restrictive environment.

The final two principles, procedural due process and participatory democracy, will be discussed in detail in the following sections of this literature review.

Due Process Procedural Safeguards

Justice Frankfurter (1951) discussed the constitutional dimensions of due process and described the general nature of the concept, as well as the many considerations that must underlie the prescription of proper procedural protections.

> Fairness of procedure is "due process in the primary sense"...."Due process" cannot be imprisoned within the treacherous limits of any formula....Due process is not a mechanical instrument. It is not a yardstick. It is a process. It is a delicate process of adjustment inescapably involving the exercise of judgment....The precise nature of the interest

> has been adversely affected, the manner in which this was done, the reasons for doing it, the available alternatives to the procedure that was followed, the protection implicit in the office of the functionary whose conduct is challenged, the balance of hurt complained of and good accomplished--these are some of the considerations that must enter into judicial judgment....(p. 117).

As Kirp, Buss, and Kuriloff (1974) reported, in all contexts due process is invoked because of two fundamental elements:

1. government action threatens the deprivation of a vital interest, and

2. the facts that might lead to this deprivation are in dispute.

Historically, educational decision making for the child with a disability has been both arbitrary and capricious (Turnbull, 1986; Weintraub, 1982, Zettel & Ballard, 1979). These characteristics, as well as the all-too-common practice of total parental exclusion from the educational decison making process, led the courts and legislature to develop a complex system of procedural safeguards relative to the effective implementation of the EHA (Weintraub & Ballard, 1982; Zettel & Ballard, 1979.

Turnbull (1986) contends that the concept of procedural due process is based on the underlying assumption that fair procedures tend to assure fair and acceptable results. He also asserts that:

> The essence of fairness is procedural due process--the right of a citizen to protest before a government

> takes action with respect to him. In the case of the handicapped child, that means having the right to protest actions of the state or local education agency. For those who pioneered the right to education doctrine, the procedures for implementing the right were as crucial as the right itself.

Additionally, it appears that the provision of these procedures through the establishment of the EHA has "brought more conscience" to the school placement process (Richmond, 1983).

Saranson and Doris (1979) suggest that legislation frequently is passed that translates public sentiment into public policy with the force of law. Although from that point on institutional opposition must conform or suffer sanctions, this in no way means that the law has changed long-held attitudes or that ways often will not be sought to implement the law minimally or circumvent it completely. Without the right to challenge the school's potentially discriminatory practices, children would find that their substantive right to receive a free, appropriate, public education would be depressingly empty--nothing more than a cruel illusion (Turnbull & Fiedler, 1982; Turnbull, Turnbull & Strickland, 1979). Richmond (1983) suggests that although greatly improved access for children with disabilities to public education has indeed been revolutionary, in all likelihood the major impact of the EHA has been as a bill of rights for parents because of both the procedural requirements and the opportunity for parental recourse.

The specific due process procedural safeguards available to parents and children in any matter concerning a child's identification, evaluation, or placement in an educational program, or a free appropriate public education must include:

a) Prior notice to parents of any change in their child's program and written explanation, in their primary language, of the procedures to be followed in affecting that change;

b) Access to relevant school records;

c) An opportunity to obtain an independent evaluation of the child's special needs;

d) The right of a child to remain in his/her current placement (or if trying to gain initial admission to school, in the regular school program) until the due process proceedings are completed;

e) The designation of a surrogate parent to use the procedures outlined on behalf of children who are wards of the stateor whose parents or guardians are unknown or unavailable;

f) Opportunity of an impartial due process hearing which must be conducted by the state or local education agency but in no case by an employee involved in the education of the child (Sec. 1415 (b)(1) (2)).

Notice: The educational agency is required to give written prior notice to the parent, guardian, or surrogate whenever it proposes to initiate or change, or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision to the child of a free appropriate public education (Sec. 1415 (b) (1) (C); Sec 300.505) The notice contain a full explanation of all the procedural safeguards available to the parents, as well as a description of and rationale for the proposed action, and any

evaluation procedures used as a basis for the proposed action. Procedures are also required to assure that notice is in the parents' or guardians' native language or mode of communication. The purpose of these requirements is to ensure that parents have available to them sufficient information to determine whether they agree or disagree with the school's proposal (Fiedler, 1985).

Access to Records: The EHA (Sec.1417 (c)), as well as other educational legislation (Sec.438, General Education Proisions Act, as amended by P.L. 93-380, Sec.513) requires the confidentiality of student records, parental access to these records, and that parents be informed of procedures used by school districts to maintain confidentiality. The requirements also indicate that an opportunity must be provided to the parents or guardians of a child with a disability to examine all relevant records with respect to the identification, evaluation, or placement of the child. In addition, parents may request explanations and interpretations of their child's records, have a represenative inspect these records, request copies, request amendments to the records, and be afforded a hearing if a dispute arises relevant to the proposed amendments (Sec. 1414 (a)(4);Sec. 1415 (b) (1) (A)).

Evaluation: The due process procedural safeguards guarantee the child's parent or guardian the opportunity to an independent (non-agency) educational evaluation of their child. The procedures also require public agencies, upon request, to provide parents or guardians with information concerning where independent educational evaluations are available, as well as information detailing the necessary qualifications of an independent examiner (Sec. 1415 (b) (1) (A); Sec 300.500; Sec. 300.503).

Surrogate Parents: In order to ensure that the child's rights are protected even when the child's parents cannot be

identified or located or when the child is a ward of the state, the procedures provide for the appointment of a surrogate parent (Sec. 1415 (b) (1) (B); Sec.300.514). While the regulations do not stipulate specific methods for determining if a child requires a surrogate parent, they do require that the individual appointed not be an employee of a state, local, or intermediate educational unit involved in the education or care of the child. The surrogate parent is responsible for representing the child in matters affecting his identification, evaluation, and placement, and his right to a free appropriate public education.

Impartial Due Process Hearing: Procedural safeguards also provide the parent, guardian, or surrogate with the right to a due process hearing at which complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or to the provision of a free appropriate public education (Sec. 1415 (b) (1) (E)) may be presented. If and when a parent, guardian, or surrogate files a complaint with an educational agency, besides the opportunity for an impartial due process hearing, the agency is required to inform the parents of any available low cost or free legal aid in the local area (Sec.300.506).

As a direct result of rulings in the two landmark cases, PARC (1971) and Mills (1972), specific protections are embodied in relation to the due process hearing itself. These are:

1. Notice of the proposed action
2. The right to a hearing prior to final action
3. The right to counsel at such a hearing
4. The right to present evidence
5. The right to full access to relevant school records
6. The right to compel attendance, to confront and cross examine officials or employees who

might have evidence concerning the basis of the proposed action

7. The right to an independent evaluation
8. The right to decide on an open or closed hearing
9. The right to obtain a transcript of the hearing and a written decision by the hearing officer (Sec. 1415 (d) (1) (2) (3) (4)).
10. The right to appeal the hearing decision to the state educational agency, and if still dissatisfied,
11. The right to appeal the state educational agency ruling in state or federal court (Sec. 1415 (e) (2)(4); Budoff & Orenstein, 1982; Sarason & Doris, 1979; Turnbull, 1986).

Additional stipulations related to the impartial due process hearing are the establishment of time limits, the qualifications of hearing officers (Sec. 1415 (b) (2); Sec. 300.507), and the fact that this right is not limited only to parents, guardians, and surrogate parents. School districts also may initiate a due process hearing based on the issues of identification, evaluation, placement, and the provision of a free appropriate public education (Sec.300.504; Sec.300.506).

Each one of these procedural protections has been established for the purpose of creating safeguards--checks and balances--that assure that the rights mandated for the child with a disability in relation to a free, appropriate, public education are given more than lip service. The safeguards are included to ensure that these rights are made available as mandated and that the important interests acquired through the right to education are protected by fair procedures. Due process is designed to assure fairness in the identification, evaluation, and placement of handicapped

students (Turnbull, Turnbull, & Strickland, 1979) and to allow for equal consideration of the interests of all who are involved in issues related to the education of the child with a disability--the child himself, the family, and the school (Abeson & Zettel, 1977).

The states have been provided considerable leeway in designing their due process systems, but the rights mandated by the EHA must be included in state laws or regulations implementing the EHA (Singer & Nace, 1985). While many school districts, operating successfully under well-established and well-understood due process systems, have found that these procedural safeguards can provide an efficient means of guiding communication with the families of children with handicaps (Abeson & Zettel, 1977), this is not always the case. Therefore, wide variations remain in the degree of meaingful parent involvement (Richmond, 1983).

Richmond (1983) suggests that the EHA has given parents a potent entitlement if they chose to exercise it. Unfortunately, many individuals, especially parents, are unaware of or do not understand the rights available to them and their handicapped child (Ellman, 1985; Weintraub & Ballard, 1982). Additionally, there are those parents who, for a variety of reasons and irregardless of the issue of parent participation, choose not to exercise the rights guaranteed to their child and themselves. Weintraub and Ballard (1982) assert that children of such parents remain vulnerable, as if the protections did not exist. They also stress the fact that the primary party involved in these procedural safeguards, the parents, are not the direct consumer affected. If the parents fail to exercise these rights, they are not the ones who suffer the most.

There is a common misconception that these provisions primarily refer to the right to challenge decisions related to the education of the handicapped child only after they

have been made and only in the context of a formalized hearing (Palmer, 1983; Zettel, 1982). This perception is inaccurate, for the intent of the procedures is to actively involve both parents and other interested parties in all aspects of the decision making process. This is why the procedures apply to all issues related to the identification, evaluation, and placement of the child, as well as to the general concept of a free appropriate public education.

Because the due process hearing has historically been the major appeal route taken by parents and schools who are unable to reach agreement, a large body of literature is available concerning its implementation. This literature will be reviewed in the following section.

The Due Process Hearing

During the planning and development stages of an educational program for a child with a disability, major disagreements may arise that are unable to be resolved through informal discussion and problem solving. When this occurs in the context of the identification, evaluation, or educational placement of the child or in the provision of a free appropriate public education for the child, the parent or the educational agency has the right to initiate a due process hearing (Sec. 1415 (b) (2); Sec.300.504;Sec.300.506). The Sixth Annual Report to Congress on P.L. 94-142 (OSERS, 1984) indicates that due process hearings may be initiated by parents or schools on 36 separate grounds, a fact earlier established by another analysis of the Act (Turnbull,Turnbull & Strickland, 1979).

As indicated in the previous section, regulations set out in detail the specific rights of each party in the context of the due process hearing and appeal (Sec. 1415 (d)). Either party displeased with the results of the initial due process hearing may appeal to the state education agency (Sec. 1415

(c)), and, if still dissatisfied, appeal in state or federal court (Sec. 1415 (e) (2) (C)); Budoff & Orenstein, 1982; Saranson & Doris, 1979; Turnbull, 1986).

The due process hearing is designed to provide a mechanism for both the parties to the dispute to present their points of view to an impartial individual who will determine the disposition of the case based on the evidence and testimony presented by both parties (Turnbull & Strickland, 1981). In the view of some, the impartial hearing officer is to serve as an arbitrator to achieve a quick resolution without the necessity of resorting to costly and time consuming judicial review (Kammerlohr, Henderson, & Rock, 1983). The benefits expected from this opportunity were to include:

1. the provision of new forum for parents and educators;

2. the opportunity to legitimize educational decisions and the process by which they are made;

3. the opportunity to assess the school's needs, as well as those of the child;

4. the opportunity to provide consumers and educators with feedback on whether their interests are mutually consistent;

5. the opportunity for increased communication and decreased misunderstanding;

6. the opportunity to increase the competence and impartiality of the decision making process (Turnbull, 1986).

Additionally, Turnbull and Strickland (1981) suggest there is

a clear rationale for the use of the due process hearing when other types of formalized negotiations have failed. It is a procedure that can provide:

1. an impartial, legally sanctioned means of settling disputes;

2. a preliminary means of clarifying issues which lack legal interpretation;

3. a means by which issues are brought to public and state education agency attention;

4. a method of sanction in the event that the rights of any party are abused.

"Idealistically, the right to appeal provided an arena...in which to contest..., and which would assure that the underserved or inadequately served would be provided programs deemed appropriate by both parents and school personnel" (Budoff & Orenstein, 1982).

There have been several positive outcomes associated with the due process hearing and Strickland (1982) suggests that these outcomes may serve to enhance and clarify parental participation. Many parents report being treated more as equals than prior to the hearing, with an increased willingness on the part of school representatives to listen to their preferences, easier access to school administrators, and, in some cases, a sense of preferred treatment. Parents also indicate that participation in the due process hearing provided them with more knowledge of the rights afforded them through the EHA. Additionally, the due process hearing has served as a forum for presenting pertinent issues to the public, as well as allowing for the consideration of controversial issues with the ultimate potential for clarification

of state and federal policies in regard to the implementation of the EHA.

Budoff & Orenstein (1982) assert that, despite both good intentions and high hopes, the hearing has not functioned as anticipated. They suggest, however, that the very existence of a hearing system has been beneficial in several ways and has acted as an agent of change by legitimizing parents rights directly, as well as indirectly benefitting many special needs children. They additionally assert that access to appeals and judicial review lends credence to the parent's rights to question the programs offered to their children, and that an active appeals system pressures bureaucratic/ political organizations such as school systems to become more responsive to the needs of children.

The literature summarized in the following section indicates that, from the perspective of due process as a conciliatory device, there are four major negative effects associated with participation in the due process hearing. These are related to:

1. The removal of decision-making power from the individuals involved in the controversy,
2. The development of an increasingly adversarial relationship between parents and schools and the damaging effect this poor relationships may have on both the child with a disability and future parent-school interactions,
3. The high costs, both financial and emotional,of participation in the due process hearing,
4. The inaccessibility of the due process hearing to many parents.

These have been identified and selected for study because the focus of this research--the assessment of parent satisfaction with the due process hearing or the mediation

procedure--is related to the major EHA principles of both parent participation and due process. As Rosenfeld (1985) suggests, "the framework of the impartial hearing system mandated by Congress in P.L. 94-142 is sound; but ten years' experience has demonstrated that certain key areas need to be strengthened".

The Removal of Decision Making Power

When the parties involved in a conflict make the decision to initiate a due process hearing, the opportunity to resolve the issue is removed from their hands (Ekstrand & Edmister, 1984) and is relegated to an outside individual (Turnbull & Strickland, 1981). The due process hearing is an adjudicatory process rather than an consensual process (Murry, 1984). As Folberg and Taylor (1984) report, such a process is one of the most rigid and least satisfying approaches to conflict resolution. It is in this type of adjudicatory procedure that participants have the least measure of control. In this type of dispute resolution situation, the conflicting parties present their viewpoints and their evidence to a judge, in this case a hearing officer, with the outcome decision based on criteria predetermined by a higher authority (Howard, 1969).

Adjudication is successfully used in hierarchial systems where the acceptance of a higher authority is demanded. However, it is less suited as a first choice for conflict resolution in a society where great value is placed on individual choice and freedom, where structures are more collective and egalitarian, and where few persons or institutions are universally accepted as worthy of having the necessary authority to impose decisions (Folberg & Taylor, 1984). As Deutch (1973) argues, if the parties have no faith in the criteria or the arbitrator but are bound by the power vested in them, the issue will resurface in further conflicts and disputes.

Adjudicatory procedures do not allow for a degree of personal involvement or provide the parties with the sense of having shaped their own decisions. Instead, as Alper and Nichols (1981) suggest, the participants are passive recipients of the results of a dual-like situation. The parties are involved in the determination of who is right and who is wrong, a win-lose situation, a destructive outcome of conflict (Deutch, 1973), not in the more effective win-win mode provided through less adversarial forms of conflict resolution (Alper & Nichols, 1981; Fiedler, 1985; Folberg & Taylor, 198; Willis & Thomas, 1985).

Constructive conflict resolution procedures require that the parties in conflict recognize the legitimacy of each other's interests and the necessity of searching for a solution that is responsive to the needs of both parties (Fiedler, 1985).

The Development of Adversarial Relationships

In the ideal, due process hearings should be a means of harmonizing the separate but similar interests of parents and educators (Kirp, 1976; Turnbull, 1986). Instead, however, research has indicated that due process hearings tend to exacerbate the already polarized and antagonistic positions of the involved parties without resolving the issues in conflict (Budoff, 1979; Budoff & Orenstein, 1981; 1982; Fiedler, 1985; Strickland, 1982; Weisenstein & Pelz, 1986; Yoshida, 1979;1982).

The due process hearing system is an adversarial procedure. This type of procedure by its very nature tends to emphasize the disagreement between the parties (Gallant, 1982) and protract and even escalate the original conflict (Alper & Nichols, 1981). Adversarial proceedings are characterized by the attempt of each party to substantiate the validity of their own interests before a judge or hearing officer, who then makes the final decision (Koopman & Hunt,

1982). The intent in this type of procedure is not to address the underlying cause of conflict but to determine from the information provided by both parties who is right and who is wrong. As Folberg and Taylor (1984) assert, parties are forced to oppose each other and to function within a win or lose environment.

An essential element missing from this type of procedure is the communication required to establish a supportive and cooperative environment in which the parties can develop their problem solving skills and work together to resolve the issue in conflict (Fiedler, 1985; Pearson & Thoennes, 1984).

Parents and school personnel who arrive at the due process hearing are primarily there because a lack of trust,confidence, and cooperation has existed in their interpersonal relationships for an extended period of time (Fiedler, 1985). These difficulties have fostered the development of conflict and now the parties are faced with a method of conflict resolution that the literature indicates does little to resolve the issues in contention (Alper & Nichols, 1981; Budoff & Orenstein, 1981; 1982; Fiedler, 1985; Folberg & Taylor, 1984; Nissen, 1984; Pearson & Thoennes, 1984; Strickland, 1982; Weisenstein & Pelz, 1986).

The most ominous aspect of the development of an adversarial relationship between parents and school personnel is that both parties become obsessed with winning, and, consequently, lose sight of planning for the educational needs of the child (Budoff & Orenstein, 1982; Weisenstein & Pelz, 1986). This is especially threatening because parents of children with disabilities are required, because of the nature of special education, to have a long-term relationship, a relationship that has the potential to extend through 18 years (Singer & Nace, 1985). Because of this, parties ideally must depend on one another for future cooperation (Budoff & Orenstein, 1982; Folberg & Taylor, 1984). This

cooperation is essential if the parents and the schools are to effectively carryout their major responsibility of assuring for the child the provision of an appropriate education.

In order to continue to foster a long-term relationship between two parties, it is essential that, if conflict arises, it be resolved in a manner that encourages reconciliation (Fiedler, 1985). This has not been an attendant result of participation in the due process hearing (Budoff & Orenstein, 1982; Nissen, 1984; Strickland, 1982). The reconciliation process involves restoring harmony and cooperation into the relationship of those who are in conflict (Fiedler, 1985). Most parents and school personnel who take part in a due process hearing (Budoff & Orenstein, 1982; Strickland, 1982; Weisenstein & Pelz, 1986), in fact, most parties involved in any type of adversarial procedure (Alper & Nichols, 1981), do not reconcile their relationshp and re-establish a positive working relationship.

Adversarial procedures neither allow nor require individuals to develop the necessary problem solving skills and to put their skills to work in a collaborative model of conflict resolution. The literature indicates that solutions achieved through the combined efforts of both parties working towards a mutual goal (in this case, appropriate education) are more readily accepted and implemented by those involved and less apt to lead to future conflict (Alper & Nichols, 1981; Budoff & Orenstein, 1981; Deutch, 1973; Folberg & Taylor, 1984). Therefore, the use of less adversarial models of conflict resolution has the potential to provide the opportunity for re-establishing constructive contact, encouraging reconciliation, and focusing the long-term efforts of both parties on the provision of an appropriate education for the child during the entirety of his/her educational career (Alper & Nichols, 1981; Budoff & Orenstein, 1981,

1982, Fiedler, 1985; Folberg & Taylor, 1984; Strickland, 1982; Yoshida, 1982).

While participation in the due process hearing may increase the adversarial relationship of the parents and schools, as well as cause permanent damage to what is demanded to be a long-term relationship (Alper & Nichols, 1981; Budoff & Orenstein, 1981, 1982; Fiedler, 1985; Folberg & Taylor, 1984; Strickland, 1982; Yoshida, 1982), special consideration must be given to the effect this participation has on the child whose education is the subject of the controversy.

The due process procedural safeguards afforded through the EHA are included to insure that all of the rights mandated through the law are, in reality, made available to the child with disabilities, his/her family, and the public schools (Sec. 1415 (a)). The presence of these due process protections is designed, therefore, to allow for the equal consideration of all who have interest in the education of the child. But, as Weintraub & Ballard (1982) assert, the primary party involved in these safeguards, the parents, and to the same degree the schools, are not the consumer directly affected.

When, as Fiedler (1985) suggests, the due process hearing system works in reality as well as it purports to in theory, the hearing process can be expected to benefit the child with a disability. Since the due process hearing has not functioned entirely as anticipated (Budoff & Orenstein, 1982; Strickland, 1982), negative effects on the direct consumer involved, the child, have been reported. Strickland (1982) asserts that one negative side effect of participation may be unusual harshness on indifference toward the involved child at school. Budoff (1979) reports that 20 percent of the parents in his study indicated that their child's attitude toward school had deteriorated during the tenure of the

proceedings. However, in A 1982 study, Budoff and Orenstein indicated that parents consistently reported little or no effect on their child. Fiedler (1985) asserts that parents may impose undue pressures on their children during the course of preparations for the hearing, creating an uncomfortable position for the child who is unsure whom to please, his/her parents or the teacher; and Nissen (1984) suggests that regardless of who wins, fallout may come to the child in the forms of resentment, possible displacement, or feelings of rejection.

Although the due process hearing is designed with the intent of protecting and ensuring the child's right to an appropriate education, it may well be found to create an atmosphere that is both unpleasant and inappropriate for the child (Strickland, 1982). In this same vein, Weisenstein & Pelz (1986) suggest that certain hidden costs are often generated not by the actual due process hearing itself, but by the fear held of it. Avoidance, they assert, too often becomes an end in itself, a goal that begins to divert time and attention away from the effort to meet the child's needs.

The evidence of an increasingly adversarial environment, the deterioration of a necessarily long-term relationship, and the possible debilitating effects on the child all appear to indicate the need for an alternative method of conflict resolution, a method that serves to foster the necessary communicative and collaborative relationship required to mutually plan the child's educational program, as well as to resolve any conflicts that may arise (Alper & Nichols, 1981; Budoff & Orenstein, 1981, 1982; Ellman, 1984; Fiedler, 1985; Folberg & Taylor, 1984; Nissen, 1984; Strickland, 1982; Yoshida, 1982).

The High Financial and Emotional Costs

The right of parents or school personnel to present complaints with respect to the educational planning for the

child was embodied in the due process procedural safeguards of the EHA (Sec. 1415 (b)(1)(E); Sec.300.504; Sec.300.506). With this right to present a complaint came the opportunity for an impartial due process hearing (Sec. 1415 (b) (2)), with an impartial hearing officer ideally serving as judge or arbitrator to achieve a quick resolution without the necessity of resorting to a costly and time consuming judicial review (Kammerlohr, Henderson, & Rock, 1983). Unfortunately, as previously cited, the due process hearing was designed as an adjudicatory, non-consensual procedure with the accompanying adversarial environment characteristic of this type of conflict resolution methodology. The stipulation of rights which accompany participation in this procedure is provided to assure fairness to all involved parties. This stipulation, however, also serves to demonstrate the legal trappings associated with participation in the due process hearing. Parties are provided with the right to be accompanied by counsel and by individuals with specific knowledge and training with respect to handicapped children; the right to present evidence, cross-examine and compel attendance of witnesses (Sec. 1415 (d)(1)(2)); the right to appeal the decision to the state education agency (Sec. 1415 (c)); and the right to appeal this decision in state or federal court (Sec. 1415 (e)(2)).

However, as Yoshida (1979) suggests, a statement of rights does not automatically constitute the competent exercise of these rights. While many parents and school personnel expected the due process hearing to be a type of working group convened with the intention of resolving differences, they have often turned out to be bitter adversarial legal battles which cause serious morale problems and require significant expense (Budoff & Orenstein, 1982; Fiedler, 1985; Nissen, 1984; Weisenstein & Pelz, 1986).

Due to this legalistic and formal nature of most due process hearings, many parents also have come to recognize

that the absence of an attorney can place them at a considerable disadvantage (Fiedler, 1985; Luckasson, 1986; Strickland, 1982, Turnbull, 1986). Yoshida (1979) indicates that several major reasons for parents choosing legal representation are their lack of skills in effectively using the procedural safeguards provided them; their need for protection against what they perceive as the heavy-handed and arbitrary actions of the schools; their lack of knowledge concerning school practices related to evaluation and programming; and their discomfort in questioning the judgment of the school (Ekstrand & Edmister, 1984).

Certain aspects of the exercise of due process have been found to be positively correlated with student/parent victory: (a) the number of exhibits parents present, (b) the number of witnesses they call, (c) their preparation for the hearing, (d) the effectiveness of their questioning, and (e) the overall quality of their presentation (Kuriloff, 1985). Luckasson (1986) suggests that these types of behaviors are clearly advocacy skills that lay parents would typically not be able to perform at a high level without the assistance of a lawyer. Additionally, Budoff, Orenstein and Sachitano (1987) report that in many states when a hearing is scheduled a pre-hearing conference is often held at the option of the hearing officer. With few exceptions, conflicts are rarely resolved at these conferences, yet lawyers had already been retained and money has already been spent.

For these and other reasons, major financial burdens have been incurred by parents in relation to their participation in a due process hearing. The costs to parents of attorney fees, independent evaluations, expert witnesses, consultations, copying of records, and telephone calls have been estimated at between $300.00 and $4,000.00 (NASDSE, 1978). Yoshida (1979) reports that legal services cost parents from $300.00 to $1,500.00 with an average cost of

$1,000.00. Budoff & Orenstein (1982) report that, by 1981, attorneys who specialized in the area of special education law charged a usual minimum fee of $2,000.00, not including the costs of the additional services mentioned previously. In a NASDSE study of 25 due process hearings in one state, the average combined cost to the parent and school was reported to be $7,000.00 with costs ranging up to $17,000.00 (OSERS, 1985). While some other costs may not be as quantifiable, they may be represented by the financial loss associated with time lost from work or, in the case of two different sets of parents in the Budoff and Orenstein 1982 study, job loss due to repeated absenteeism.

Besides the high financial costs incurred, parents are also reported to pay a high emotional price for their participation in the due process hearing (Budoff, Mitchell & Kotin, 1976; Budoff & Orenstein, 1981, 1982; Fiedler, 1985; Gallant, 1982; Strickland, 1982; Turnbull, 1986). Silberberg (1979), a parent advocate asserts:

> "Procedures do not give parents equality. In fact, parents continue at a disadvantage. They are facing an adversary who has time, money, resources, and determination on its side....It is amazing that parents, against such odds, even bother to request due process hearings (p.89)."

Considerable frustrations are evidenced in negotiating the complex bureaucy of the schools, and, as Budoff and Orenstein (1981) report, the bureaucracy becomes increasingly antipathetic as the hearing preparations proceed. When parents were asked by Budoff and Orenstein (1982), "How upsetting is it to parents and families to participate in an appeals dispute?", 56 percent of the sample rated the experience extremely upsetting. Additionally, 70 percent agreed with the statement that "The emotional costs of using the hearing system are high".

(1981) and Salend and Zirkel (1984) suggest that the fiscal burdens associated with the use of due process particularly abridge the due process rights of parents and children from lower socioeconomic backgrounds. Additionally, Kotin (1976) reports that the financial status of parents may affect their ability to win or lose a case and, in agreement with this, Nissen (1984) suggests that due process does have implication for wealth classes because, as attorney fees range from $80.00 to $100.00 per hour, only parents in the middle and upper-income ranges can avail themselves of these procedures. This situation is particularly noteworthy since a strong relationship has been identified between lower economic status and special education placement (Buss, Kirp & Kuriloff, 1975; Nissen, 1984).

The issue of hearing costs and accessibility appears to be of extreme importance in evaluating the effectiveness of all due process procedural safeguards provided to the child and his/her family through the EHA (Salend & Zirkel, 1984). This bias against low-income families, due either to the financial expenses involved or to the intimidating nature and legal mystification of such a system, can have serious implications not only for special education but not for our entire system of government (Fiedler, 1985).

> To the degree that the courts are inaccessible, the privileges of citizenship are thereby diminished.... Effective access to the courts is the 'most basic requirement' of a political system that strives 'to guarantee and not merely proclaim, the legal rights of all (Alper & Nichols, 1981, p. 13-14).

The literature relating to the due process hearing, while demonstrating the many benefits involved with the system, also has indicated that there are critical negative effects associated with the provision of the hearing as the sole

method of conflict resolution in special education. These negative effects have been shown to restrict both its ability to resolve conflicts and its accessibility to many consumers. The suggestion has been made to investigate the use of consensual methods of conflict resolution as an alternative to this sole reliance on the due process hearing. The use of a mediation procedure as a possible effective alternative has been forwarded (Budoff & Orenstein, 1981, 1982; Fiedler, 1985; Folberg & Taylor, 1984; Nissen, 1984; OSERS, 1984; Strickland, 1982; Turnbull & Barber, 1984; Turnbull & Strickland, 1981; Yoshida, 1982). It is crucial to remember that any procedures that have been suggested as possible alternatives to the due process hearing are just that--options/alternatives. At this point in time, the due process hearing is the only conflict resolution procedure mandated by the EHA (Sec. 1415 (b) (1) (2)). In relation to this issue, both Massachusetts and Connecticut have been required to revise their notices about due process hearings and mediations to make it obvious that the mediation procedure is an optional step in the due process proceedings (Education for the Handicapped Law Report, 1987).

The following section of this literature review will discuss the basic concepts underlying the proposed alternative, as well as its use and purported effectiveness in a variety of areas outside of special education. The final section will discuss the use and effectiveness of mediation as a conflict resolution procedure in special education to date.

Mediation

> Conflict and dispute are inevitable and pervasive aspects of life. They have valid individual and social functions...they provide the impetus for social change and individual psychological development. The question in not how to avoid or suppress

> conflict; doing so usually has harmful or stagnating consequences. Rather the question is how to create the conditions that encourage constructive, enlivening confrontation of the conflict. A useful distinction can be made between lively controversy and deadly quarrel (Folberg & Taylor, 1984, p.ix)

As indicated in the literature pertaining to the due process hearing procedure (Budoff, 1979; Budoff & Orenstein, 1981, 1982; Fiedler, 1985; Strickland, 1982; Weisenstein & Pelz, 1986; Yoshida, 1979, 1982), an unwanted yet often manifested side effect of this method of conflict resolution is the heightening of adversarial feelings between parties involved in the dispute. Because of this and because of the other mentioned weaknesses of the formal due process hearing as the sole means available for conflict resolution (Budoff & Orenstein, 1981, 1982; Fiedler, 1985; Strickland, 1982), the suggestion often has been forwarded that alternative methods of conflict resolution be considered, with mediation being mentioned most often (Ekstrand & Edmister, 1983; Fiedler, 1985; Folberg & Taylor, 1984; Kirp, Buss & Kuriloff, 1974; Nissen, 1984; OSERS, 1984; Turnbull & Barber, 1984).

The establishment of alternative dispute processing programs has been called by Murray (1984) "a growth industry in the United States." Snyder (1984) asserts that efforts to demystify the way disputes are settled in American society seem to have congealed into a nationwide movement within less than a decade. The number and variety of established alternative dispute resolution programs have increased as fast as procedures and organizations to carry out these procedures can be created (Murray, 1984). Unfortunately, while this enthusiasm for alternative programs is seen as a positive force, caution must be taken. Metaxas (1986) suggests that after a decade of enthusiasm the alternative dispute resolution movement has reached a plateau and a

chorus of critical voices is being raised questioning not only the ability of these alternative methods to achieve their objectives but also the basic validity of these objectives. Marks, Johnson, and Szanton (1984) also suggest that many of the efforts to remedy the preceived flaws in our traditonal system of justice have themselves proved of questionable value, created unanticipated problems or failed to become institutionalized elements of the justice system. Some of the major difficulties they attribute to alternative methods of dispute resolution are:

1. Some processes take on formalities and adversarial trappings,

2. "Lesser forums" may provide only second-class justice,

3. Less formal techniques may be influenced by the power disparities of the parties in conflict,

4. The too available accessiblity may tend to produce an even more contentious or regulated society.

Informalism, according to Abel (1982), is simply the latest in a long line of reforms that seek to realize the promise of liberalism. However, Snyder (1984) reports that while legal history is littered with the debris of broken dreams of reformers who saw a world uncluttered with law and lawyers, there is something truly different about those who want to develop non-adversarial alternatives, for their goal appears to be systemic change, not the piecemeal type of reform often practiced.

Murray (1984) suggests that consensual dispute processing has progressed to the point where it no longer needs to be labeled with alternative status but allowed instead to mature

as a separate and full-fledged institution. He defines an institution in this case as:

1. A cultural fact with broad existence, society-wide in effect,
2. Something that involves significant activity within the culture, and that is important, and even pivotal in the lives of citizens,
3. Having an instructional quality which serves to educate citizens in an acceptable method or approach,
4. Involving activities that contribute to the well-being of society and have a positive impact with the purpose of improving lives,
5. Something well-established in society so that it is a stable influence in people's lives.

Additionally, despite all its drawbacks, even critics of these alternative methods acknowledge that this movement plays some positive role (Metaxas, 1984). As Professor Resnik of the Yale Law School asserts:

> To the extent that they are attempting to increase individual participation over outcome, they are doing good things. The fact that there is a lot of energy is good. These are important issues to society (in Metaxas, 1986, p.10).

Consensual dispute processes are described as those activities that have as their goal either the management of existing disputes and expressed differences based on a past or present situation, or the planning for, or avoidance, or management of future conflict (Murray, 1984). A more useful distinction,Murray feels, is based on who controls the final decision, the disputants or a third party. The two types of dispute resolution processes could then be identified as:

1. Adjudicatory processes: In this type of situation the disputants are required to surrender control over the end result to a third-party decision maker. Examples of this type of process are administrative hearings, arbitration, and judicial decision making.

2. Consensual processes: In this type of situation the disputants retain their individual consent to the final decision. Examples of this type of process are fact-finding, negotiation, mediation, and conciliation.

Today, many of those who are involved with these consensual processes are individuals from areas other than the law. Over two hundred dispute resolution centers have opened in approximately thirty states in the past years, creating career options for a wide array of individuals. Applications of consensual methodology are currently involved in labor and international relations, family issues, religion, enviornmental issues, consumer complaints, and criminal activity (Murray, 1984).

If one is to be effective in the practice of consensual dispute processing, it is required to have a conceptual understanding of the nature of conflict itself. As Folberg and Taylor (1984) assert, conflict, whether between individuals, groups, or nations, has certain basic features and can be divided into two categories: intrapersonal conflict (which is within the individual), and interpersonal conflict (those situations which arise between individuals and groups). Boulding (1962) defines conflict as:

> A situation of competition in which the parties are aware of the incompatibility of potential future positions and in which each party wishes to occupy a position which is incompatible with the wishes of the other.(p.5)

In the practice of consensual dispute process, we are concerned basically with resolving interpersonal conflicts.

However, the discussion of issues involved in the process may serve as a trigger for intrapersonal conflicts (Folberg & Taylor, 1984). Accordingly, one needs to be able to recognize and distinguish between the two. The negotiation and communication skills that can be developed as an adjunct to participation in a consensual process can enable participants to ascertain underlying problems and reduce intrapersonal conflict as they work towards a mutual goal (Alper & Nichols, 1981; Folberg & Taylor, 1984; Maines & Powell, 1986).

While society often views the issue of conflict in a negative manner because it has so often been equated with win-lose situations (Folberg & Taylor, 1984; Gordon, 1977), conflict also can function in important and positive ways by serving such purposes as reducing incipient tension by making issues manifest, clarifying objectives, or generating creative energy and improving situations. As Jandt (1973) suggests, a relationship in conflict is at least a relationship and not the absence of one. Such a relationship may result in creativity because of its intensity. This creativity may be especially productive in the course of consensual processes such as mediation.

Mediation, as a method of consensual dispute processing, is designed to differ from other conflict resolution procedures. Mediation, while providing the expert assistance of a third party, does so without pre-determined standards as to what direction the settlement should take (Murray, 1984). No attempt is made by the mediator to impose any specific resolution of the conflict on the disputants.(Marks, Johnson, & Szanton, 1984). In mediation, the success or failure of the procedures rests primarily with the parties involved (Folberg & Taylor, 1984), and in action the process has been identified as challenging, rewarding, unpredictable, and even at times uncontrollable (Alper & Nichols, 1981).

The primary goal identified with the use of a mediation procedure is the creation of a set of agreements that will guide future actions and consequences between the parties (Folberg & Taylor, 1984). An additional goal, and one of major importance here, is the reduction of the negative effects of conflict through the improvement of communication and the enhancement of negotiation skills (Folberg & Taylor, 1984). Ideally, in this type of conflict resolution the consensual agreement reflects the participant's own preferences and will be both more acceptable and more durable than an option imposed by the courts (Folberg & Taylor, 1984). Participants are left with the sense of having directly shaped their own brand of justice (Alper & Nichols, 1981), with justice for everyone being the guiding principle and objective (Maines & Powell, 1986)

The participants in the mediation process are responsible for making the decisions that affect their lives. They invest both intellectually and emotionally in the success of the procedure and are therefore more likely to adhere to the final consensual decision. It is recognized as a self-empowering process (Folberg & Taylor, 1984), with the principal advantage seen as self-determination. Mediation is seen as a goal directed, problem solving intervention intended to resolve differences and reduce conflicts, as well as provide a forum for decision making, both now and in the future (Folberg & Taylor, 1984; Murray, 1984).

Mediation can be characterized in the following manner:

Basic Assumption: Equity and joint interests are best served through cooperative techniques of conflict resolution and guided negotiation resulting in the maximum degree of individualization and self-determination.

Clients Served: All parties in conflict.

Customary Objectives. Creation and selection of client options, continuing cooperation, and independence from professional help.

Strategies: Development of interpersonal communication between clients; balancing the interests and needs of all parties; suggesting alternatives; developing a balance of power and legitimacy between parties; assuring minimal losses to all parties; referral of clients to other professionals as needed (Folberg & Taylor, 1984; Koopman & Hunt, 1982).

The literature is replete with references as to the benefits of this type of non-adversarial method versus a more formal dispute resolution procedure such as an administrative hearing or, in the case of special education, a due process hearing. Many of these advantages to the mediation process are directly applicable to the area of special education and appear to support the cry for a mediation option as an alternative to the due process hearing.

1. Mediation strengthens democratic values and enhances the dignity of those in conflict (Folberg & Taylor, 1984) by providing a level of respect for persons involved (Alper & Nichols, 1981).

2. Mediation removes disputants from the burdens of the adversarial procedure that usually protracts and may even escalate the original conflict (Alper & Nichols, 1981).

3. Mediation can remove the issue from the realm of simple guilt or innocence and teach the participants to isolate the crucial issues, ascertain the underlying problems, face these problems, realize that cooperation can be to their mutual advantage, and work out a conclusion

satisfactory to both parties in the dispute (Alper & Nichols, 1981; Salazar, 1986).

4. Mediation is best suited to dealing with individuals who have complaints against one another, and is especially suited for dealing with individuals who have had and will continue to have some type of relationship after the dispute has been resolved (Alper & Nichols, 1981; Folberg & Taylor, 1984; Maines & Powell, 1986).

5. Mediation, unlike the adjudicatory process, does not emphasize winning or losing. There is a cooperative rather than an adversarial mood. The emphasis is on establishing a workable solution that meets the participants' unique needs, making it a win-win situation (Folberg & Taylor, 1984: Maines & Powell, 1986; Marks, Johnson & Szanton, 1984).

6. Mediation is a short term, not long term involvement. By reducing the time frame between complaint and resolution, it can defuse the hostility, promote efficiency, and lead to significant savings, both financial and emotional (Murray, 1984; Riskin, 1982).

The mediation process has been identified as a seven-stage conflict-resolution procedure, a mega-process, each stage with its individual tasks (Folberg & Taylor, 1984).

Stage One: Creating Structure and Establishing Trust

This stage, the introduction, is considered vital to the establishment of a relationship. During this phase, the mediator must strive to provide initial structuring, gain the participants' trust, and elicit their active participation in the process. At this point, it is essential that the

mediator assess the participants' attitudes concerning the process, as well as their readiness for the procedure. Additionally, it is important that the mediator gather essential information relative to: participants' motivation; emotional state interaction and communication styles; safety and security concerns; information pertaining to background and precipitating events; the presenting problem vs. a hidden agenda; and arrangements for the participation of others or legal processes.

Stage Two: Fact Finding and Isolation of Issues

Before it is possible for good decisions to be made by the participants, it is essential that both parties have equal information and fully understand what the major issues are. During this phase the mediator helps participants to understand their areas of agreement and conflict, as well as the nature of their underlying and manifest conflicts. This stage requires the delineation of all the issues and comes to a close only when the mediator knows where all disagreements and conflicts lie, the underlying conflicts, and what each participant wants, as well as what they will not accept.

Stage Three: Creating Options and their Alternatives

The basic issue at this stage is deciding on how to achieve what both parties want, as well as how to achieve it in the most efficient manner possible. The two main tasks of this phase are helping the participants articulate the options they are aware of or want and helping them develop new options that may be more satisfctory that the previous ones. In these tasks, the mediator must equally be a facilitator, an originator, and a synthesizer. It is essential that both parties be involved actively in the development of options/alternatives for one will most probably be chosen as the mediated solution.

Stage Four: Negotiation and Decision Making

The major task of this phase is maintaining the cooperation of the participants in order to develop a mutually

agreed upon outcome. Parties in this stage must be encouraged, for each major issue, to choose an option they can live with even if it is not what they originally desired. They need to be encouraged to take the risk of decision making. This stage is the appropriate time for participants to examine the reality and consequences of the options they have developed. During this stage, conversation patterns switch as participants communicate directly with the mediator, acting as an agent of reality and as a monitor to assure equal participation and comprehension.

Stage Five: Clarification and Writing a Plan

Most participants will have been able to make option choices during the previous stage. The function, therefore, of this phase is to produce a document that clearly outlines the intentions of the participants, the decisions they have made, and their planned future behavior. This written plan should include a mutually agreed upon provision for review, as well as stipulations regarding the revision policy and procedures that will be used if future changes necessitate rewording of the agreement. During this stage, the mediator must resist the urge for closure and permit the participants to produce the final synthesis.

Stages Six and Seven: Legal Review/Processing; and Implementation/Review and Revision

These stages are less universal than the preceding stages and depend on the subject of the mediation as well as the setting of the mediation situation. In these two stages, the power, control, and the responsibility no longer are entirely in the hands of the participants and the mediator. Folberg and Taylor (1984) suggest that these two final stages may be more aptly suited to areas where individuals mediate for themselves rather than where representatives knowledgeable in relevant laws and systems are the mediation participants. It appears that these final stages may prove most valuable in

conflicts where power imbalances may affect the ultimate outcome of the mediation process. Levine (1986) suggests that while inequalities of power may take many forms, for the purposes of dispute resolution these inequalities may be divided into:

individual imbalances: those which result from an inequality of power between the two parties such as financial, social, economic, or cultural differences.

structural imbalances: those which result from access to procedures or lack of access to counsel.

This issue of power balance must be considered especially in the face of criticism to alternative methods of dispute resolution that assert that what is being provided is a second-class form of justice (Jaffe, 1983; Marks, Johnson, & Szanton, 1984; Riskin, 1982; Salazar, 1986) that may be more unduly influenced by the power disparities of the parties (Abel, 1982; Marks, Johnson, & Szanton, 1984; Riskin,1982) and that may also be lacking in sufficient due process safeguards (Jaffe, 1983; Metaxas, 1986; Riskin, 1982).

Benefits of Mediation in General

The mediation procedure has been identified as a process that has the potential to work well for many types of disputes (ALper & Nichols, 1981; Folberg & Taylor, 1984; Maines & Powell, 1986; Marks, Johnson, & Szanton, 1984; Riskin, 1982; Salazar, 1986; Willis & Thomas, 1987). Groups and individuals who have attempted to resolve their differences in this manner have consistently responded favorably to post-mediation evaluations of its fairness and value (Folberg & Taylor, 1984; Garofalo, Connelly, & Connelly, 1980; McGillin & Mullen, 1977; Salazar, 1986; Willis & Thomas, 1987). Mediation has been espoused as a

system that, when integrated within a supportive legal system, may provide participants not only with a plan of action for the future but also a greater sense of satisfaction about the process they have just undergone.

Additionally, mediation is perceived as the type of procedure most effective when established and utilized within a system that provides individuals with the right and accompanying opportunity to actively participate in shared decision making. This right to participate in shared decision making is purported to be positive characteristic of special education, with parents expected to be actively involved in assessment, program planning and evaluation of program outcomes (Gillain & Coleman, 1981; McLoughlin, Edge, & Strenecky, 1978; Neyhus & Neyhus, 1979; Yoshida, Fenton, Kaufman & Maxwell, 1978). However, a variety of parental participation studies indicate that parents have not become equal partners, nor are they perceived by others as equal partners in the special education process (Gillian & Coleman, 1981; Goldstein, Strickland, Turnbull & Curry, 1980).

Mediation in special education is proposed as <u>an option</u>, not as a replacement for, the due process hearing (Ekstrand & Edmister, 1984; Ellman, 1984; Fiedler, 1985; Kirp, Buss, & Kuriloff, 1974; Nissen, 1984; OSERS; 1984; Turnbull & Barber, 1984). This proposal appears to be appropriate, for, as Murray (1984) suggests:

> The establishment of an independent process should not obscure the interrelationship that must exist with other systems for settling disputes in society. It should be part of a comprehensive and phased system of settlement assistance made available. It should not replace systems already established but serve as a separate and complimentary system. It is

> critical that it not pose a threat to the positive elements of the traditional system (p.).

The following section will pertain to the development, use, and success of mediation procedures as an alternative means of conflict resolution in special education. Emphasis will be placed on the ability of mediation to provide the opportunity for the exercise of due process rights without the negative effects associated with participation in the due process hearing. To this end, particular emphasis will be placed on the issues of:

1. The retention of decision making power with the participants,

2. The nonadversarial nature of the process,

3. The financial and emotional costs associated with its use and,

4. Increased accessibility to due process rights.

Mediation in Special Education

> Perhaps a new constitutional principle has grown within our society. Each member may now have a fundamental right of access to a peaceful means of conflict resolution. If our government provides any dispute processing means, such as a court system, perhaps it has a duty to provide the least restrictive means for accomplishing that goal (Murray, 1984, p.70).

The previously indicated negative outcomes and destructive aspects of many special education appeals hearings have also led to the suggestion of a more positive and optimal form of dispute resolution, that of mediation (Budoff &

Orenstein, 1981, 1982; Ekstrand & Edmister, 1984; Ellman, 1984; Fiedler, 1985; Folberg & Taylor, 1984; Kirp, Buss, & Kuriloff, 1974; Nissen, 1984; OSERS, 1984; Strickland, 1982; Turnbull & Barber, 1984; Yoshida, 1982). To this point in time, however, while there has been a great deal written about the potential benefits of mediation as a possible alternative to the sole use of the due process hearing, there has been a dearth of empirical data collected in this area.

In 1979, Yoshida studied the extent to which parents in Connecticut used assistance in mediation and due process hearings, as well as the reasons for their seeking assistance. A 1983 study by NASDSE examined the use of mediation in 38 states and reported on the various types of support for and degrees of institutionalization of mediation in those states. The Sixth Annual Report to Congress on P.L.94-142 (OSERS, 1984) included the fact that many states had adopted a mediation alternative. Also, in 1984, Ekstrand and Edmister authored an article designed to offer practical thoughts on mediation to school systems, and Nissen (1984) addressed the practical issues involved for building principals in mediating to determing the most "free appropriate public education" for children with disabilities and thus avoiding the due process hearing.

Gallant, in 1982, wrote Mediation in Special Education Disputes, a book which detailed the history, development, and application of a training program for mediators in the area of special education, as well as the philosophy behind the process itself. Singer and Nace (1985), under the auspices of the National Institute of Dispute Resolution, carried out a study on the application and effectiveness of mediation in the states of Massachusetts and California, and, although they interviewed a wide-range of individuals in this area, their article provides no empirical data.

While these authors, as well as others such as Budoff and Orenstein (1981), Ellman (1984), Fiedler (1985), Folberg and

Taylor (1984), Kirp, Buss, and Kuriloff (1974), Strickland (1982), Turnbull and Barber (1984), Turnbull and Strickland (1981),and Yoshida (1982) have written of the potential benefits of providing an alternative method of conflict resolution, it appears that the majority of information available at this point in time is based on the theoretical or assumed benefits of the mediation procedure and not on empirical data to support these potential benefits.

The use of this process of mediation, in which disputants, guided by a neutral third party, seek the common ground between them as the key for the resolution of their disputes (Gallant, 1984), has increased in the past decade, with this procedure being utilized as an alternative to the formal due process hearing, as well as a preceeding step to the formal hearing.

In 1975, Connecticut created a mediation option by the enactment of legislation and, in 1976, Massachusetts formally added a pre-hearing mediation stage to its special education appeals process (Gallant, 1984; Singer & Nace, 1985). As of 1984, at least 12 additional states and the District of Columbia had special education personnel involved with mediation. During this same period of time, California, Georgia, Oregon, Texas, and Wyoming established programs to augment the existing conflict resolution procedures and provide mediation as an alternative to the due process hearing (Folberg & Taylor, 1984).

Individual school districts themselves have also sought to develop less formal and legalistic procedures of settling disagreements in an effort to keep parents involved in decision making and to reduce the adversarial and costly nature of the due process hearing (Button, 1981; Minnesota State Department of Education, 1981; Yoshida, 1982; Yoshida & Byrne, 1979).

The Sixth Annual Report to Congress on P.L. 94-142 (OSERS, 1984) indicates that many states have adopted

mediation procedures or informal dispute settlement processes to offset the need for due process hearings and to deal with expressed concerns about the increasingly adversarial nature of parent-school relationships. A 1983 study by NASDSE examined the use of mediation in 38 states and found support for the procedure in 87 percent of these states. Eleven states provided support through rules and regulations, and 22 by administrative direction. Where mediation was supported administratively, the nature of the support differed considerably among the states. Some states utilize state education agency staff to conduct mediation, others train local staff in mediation techniques, and still others offer written guidelines or include mediation as a suggested alternative in state plans or due process handbooks. Five states report that mediation was neither provided for in state rules or regulations nor supported administratively. In relation to the nature of support, Budoff, Orenstein, and Salchitano (1987) report that as of 1982-83 there were 27 state-managed appeals systems. Eighteen of these had developed mediation programs with the majority using state personnel to resolve disputes.

The Education for All Handicapped Children Act itself does not mention mediation as a means of resolving complaints, nor do the regulations promulgated by the Department of Education to implement the Act. However, a comment to the regulations states that:

> Many states have pointed to the success of using mediation as an interveing step prior to conducting a formal due process hearing. Although the process of mediation is not reqired by statute or these regulations, an agency may wish to suggest mediation in disputes concerning the identification, evaluation, and educational placement of handicapped children. Mediations have been conducted by members

> of state education agencies, or local education agency personnel who were not previously involved in the particular case. In many cases, mediation leads to the resolution of differences between parents and agencies without the developoment of an adversarial relationship and with minimal emotional stress. However, mediation may not be used to deny or delay parents rights under this subpart (Comment following 34 C.F.R. Sec. 300.506).

Neither the regulations nor these comments, however, provide any substantive or procedural guidelines for mediation and Singer and Nace (1985) report that interviews with personnel in the United States Department of Education indicate that the Department maintains a "hands-off" position with respect to mediation with the only concern being that due process rights are neither impeded or delayed,

The purpose of mediation in special education is to resolve difference between educators and parents that cannot effectively be handled through other procedures (Turnbull & Strickland, 1981) and to avoid, if possible, the more adversarial environment of the due process hearing. The mediator's role in special education, as in other areas,is that of facilitator and agent of reality. In special education, as in other arenas, this process is presumed to provide a forum for the full exploration of issues, options, and consequences. Rather than allowing partial measures or temporary solutions which can ultimately increase the stress and dissatisfaction felt by either side, mediation can bring about much needed closure of the conflict by looking to a future that is mutually desired (Folberg & Taylor, 1984). Folberg and Taylor (1984) also suggest that for parents who are attempting to advocate for a child's unique needs within an education bureaucracy, mediation may be the most efficient and least exhausting way to resolve the conflict.

Ideally, any issue which relates to the education of the child with a disability can be used to initiate mediation procedures. Ekstrand and Edmister (1984) suggest that, realistically, not all issues are appropriate subjects for mediaiton. Mediation implies a willingness, they suggest, although not an obligation, to accept a mediator's recommendations for resolution and it could be both a frustrating and fruitless procedure if the school district had already condluded that the parents' request could not be implemented. In practice, mediation is seen as most effective when the school and parents disagree on the amount or type of special education and related services to be provided to the child (Ekstrand & Edmister, 1984). Additionally, Yoshida (1982) suggests that, if mediation is to be used as a possible alternative, it is critical that the outcomes of mediation be clearly defined.

The most obvious outcomes to be studied according to Nissen (1984) and Yoshida (1982) are (1) whether the mediation solution is appropriate for the students and, (2) whether mediation reduces the financial and emotional costs to parents and school personnel. As Murray (1984) suggests, this type of accountability is a necessary requirement of all alternative consensual methods. It is necessary to demonstrate that the proposed alternative does what it is purported to do and does so in a manner as effective, if not more so, than the procedure for which it is offered as an alternative.

It is possible for the mediation process to be implemented any time after a disagreement arises between the parents and the schools (Ekstrand & Edmister, 1984; Singer & Nace, 1985; Turnbull & Strickland, 1981). However, when the procedure is initiated, a third party is brought into the dispute. Ekstrand and Edmister (1984) suggest that even this type of consensual process should not be resorted to until

all direct efforts between the parties to the dispute have been exhausted.

If mediation is to be a viable alternative to the due process hearing, it must demonstrate that it is a means to resolve conflicts without the attendant difficulties associated with the due process hearing. It must be shown to be:

1. A procedure that maintains the decision-making power with the parties involved in the conflict, allowing them to reach a mutual solution to a mutual problem.
2. A procedure that fosters the development of communication and problem-solving skills necessary to maintain a positive working relationship supported by the mutual goal of appropriate education for the child.
3. A procedure that affords the opportunity to exercise due process rights for reasonable financial and emotional costs.
4. A procedure that is accessible to all parents of children with disabilities.

The Maintenance of Decision-Making Power

By its very nature as a consensual procedure, mediation is a process that emphasizes the participants' own responsibility for making decisions that affect their lives (Folberg & Taylor, 1984). The individuals who are involved in a mediation session are not simply recipients of a service but,ideally, are actively involved as participants. Folberg and Taylor (1984) stress the use of the word "participants" in reference to the mediation procedure for they feel this word, much more than the term "parties" (associated with less consensual proceedings), better conveys the idea of involvement that is essential to the mediation process. Specific objectives associated with the use of the mediation process and demonstrating its characteristics of utilizing the

values, norms, and principles of the participants rather than those of a third party are:

1. the production of an agreement for the future which all particpants accept and with which they can comply;
2. the preparation of the participants to accept the consequences of their own decisions; and
3. the reduction of anxiety and other negative effects of the conflict by helping the participants devise a consensual resolution (Folberg & Taylor, 1984).

The essential difference between mediation and the due process hearing in special education, as characterized by Turnbull and Strickland (1981), is that in mediation the focus is on reconciling or compromising differences of opinion by the mutural efforts of those in conflict. In the due process hearing, the decision making authority is taken out of the hands of the parties involved. Gallant (1982) suggests that it is this opportunity for participants to make their own decisions which places the process high on the lists of idealists and pragmatists alike. This characteristic, she asserts, allows much latitude in agreement and encourages both sides to work toward a proper solution allowable under the law for the child.

A significant aspect of special education disputes is that they never involve simple yes or no decisions (Singer & Nace, 1985). The issue in conflict in the majority of cases is the educational plan of the child (Budoff & Orenstein, 1981; 1982; Ekstrand & Edmister, 1984; Singer & Nace, 1985), a plan which, by its nature, consists of many components and offers many possibilities. An orientation towards the future and the complexity of the matters under discussion create a situation in which there is much leeway for negotiation and creative problem solving. This opportunity for creativity is identified as an especially

productive characteristic of a consensual procedure such as mediation (Alper & Nichols, 1981; Jandt, 1973).

Arthur Stewert, Coordinator of Mediation for the Massachusett's Department of Education, Bureau of Education Appeals, in his presentation at a 1985 conference,"Legal Services and the Mediation of School Related Disputes" (Center for Law and Education, 1985) states:

> ...during the course of a mediation a couple of things are briefly and temporarily suspended. The circumstances of the dispute are suspended...we're asking people...to behave in a different way with each other...to talk it out rather than taking courses of action that are available to them otherwise...a mediator assumes temporary authority and...suspends the natural power relationships that exist among people...mediation allows people without power to have a greater voice...allows people who would have to depend on a political or power-related solution to find other ways to rationally and analytically describe what they'd like to see happen.

An issue that calls for consideration at this time is that of the qualifications of, as well as the selection and training of individuals who will be mediators. Eight jurisdictions utilizing a mediation alternative (Connecticut, Colorado, Florida, Iowa, Michigan, New Jersey, New York, North Carolina, and the District of Columbia) developed their programs through a personnel preparation and training grant from the Office of Special Education (Gallant, 1982). The Neighborhood Justice Center of Atlanta (NJCA, 1982) has also developed a training model specifically for the resolution of educational disputes (Alper & Nichols, 1981; Folberg & Taylor, 1984), and as of late 1986 the National Insitute of Dispute Resolution was investigating the possiblity of

entering the mediation training area in special education disputes.

The training issue is crucial because it can have an impact on both the effectiveness of the mediation and the satisfaction felt by the participants (Ekstrand & Edmister, 1984; Folberg & Taylor,1984; Gallant, 1984; Yoshida, 1982). Folberg and Taylor (1984) suggest that in considering what is appropriate education and training in mediation at least five subjects must be included: understanding conflict; mediation procedures and assumptions; mediation skills; substantive knowledge of the area in which the mediator will work; and mediation ethics and standards of practice.

Gallant (1984) indicates the need for the understanding of human behavior, group dynamics, and systems theory. She also indicates the requirement of a sophisticated knowledge of schools, special education, and pertinent laws. Ekstrand and Edmister (1984) elaborate more fully on the fundamental prerequisites for a qualified mediator in special education and suggest: a knowledge of federal and state laws governing special education; a basic understanding of the special education services available in the specific school district; the ability to communicate in an effective, non-threatening, and non-argumentative manner; and the ability to control a mediation session under stressful conditions.

Turnbull and Strickland (1981) suggest a list of 17 suggested competencies for individuals responsible for the mediation of special education disputes:

1. to identify the legal rights of handicapped children in regard to mediation.
2. to determine when the legal rights of a handicapped individual have been abused and what specific action constituted the violation.
3. to outline the proceeings which will occur at the mediation conference.

4. to assist parents in the development and preparation of case material to be used in mediation, including the request for witnesses, presentation of testimony, and briefing of witnesses before the conference.

5. to demonstrate general knowledge regarding school programs and procedures including testing procedures, diagnosis, programming, and placement.

6. to demonstrate specific knowledge related to the program provided to a particular child.

7. to identify briefly and state clearly the issues involved in mediaiton.

8. to contribute to an atmosphere of willing cooperation among the participants present at the mediation conference.

9. to identify systematically each point of disagreement among the participant at the mediation conference.

10. to be knowledgeable concerning the position taken by the other party during mediation proceedings.

11. to discuss and negotiate individual issues as presented during the mediation conference.

12. to demonstrate techniques of negotiating,reviewing, and questioning evidence during mediation proceedings.

13. to demonstrate methods of synthesizing information presented during the mediation conference on each point of disagreement.

14. to identify criteria for accepting or rejecting alternatives presented during the mediation conference.

15. to clarify with the mediator and other participants at the mediation conference issues regarding suggested compromises.

16. to arrive at a future course of action based on the agreement of the participants with the negotiations during the mediation conference.

17. to initiate strategies for monitoring the implementation of decisions made during the mediation conference.

As mentioned previously, both Gallant (1982) and the Neighborhood Justice Center of Atlanta (1982) have developed training models specifically for special education disputes. Both models emphasize learning by experiencing role-playing in each of the three basic roles: mediator, parents, and school representative; and both models fit the seven-stage process of mediation presented by Folberg and Taylor (1984).

While it appears that much interest has been given to the issue of training, it also appears that the issue of mediator selection is one that appears to be much less generalized. For example:

1. Massachusetts has six full-time mediators with the Bureau of Special Education Appeals. Each is assigned to one of the six regional office of the Department of Education. Occupations range from former priest to prison official and none are attorneys (Center for Law and Education, 1985; Gallant, 1984).

2. Mediators in Connecticut are hired on a per-diem basis by the State Board of Education for Mediation. The majority of the 12 are former social workers and psychologists (Center for Law & Education, 1985; Gallant,1984).

3. California currently has eight part-time mediators appointed through the State Department of Education. They include a retired principal, a retired special education director, a former teacher, several attorneys, a counselor, and the parent of a handicapped child (Singer & Nace, 1985).

4. In Florida, mediation is coordinated through the Bureau of Education for Exceptional Children. Individuals

suggested for consideration as mediatiors (State of Florida, 1982) are superintendents, special education directors, grievance coordinators, local education agency attorneys, etc.

This lack of uniformity in selection practices may be an area of concern for, as Murray (1984) suggests, a major weakness of consensual processing systems is the lack of uniformity associated with them, a lack which may lead to problems related to both public understanding and public acceptance.

The Maintenance of Non-Adversarial Relationships

Mediation, in contrast to more adjudicatory procedures, not only allows for but facilitates communication between participants. In contrast to adversarial proceedings, which are characterized by the attempt of each part to validate their own interests, mediation is characterized as a procedure that makes it possible for the individuals in conflict to deal directly with the underlying issues that give rise to the dispute (Alper & Nichols, 1981). Instead of determining who is right and who is wrong (a win-lose situation), mediation is concerned with developing a solution which is mutually agreeable to both parties, a win-win situation of mutual conflict resolution (Alper & Nichols, 1981; Folberg & Taylor, 1984). Nissen (1984) suggests that mediation can lead to solutions without creating adversarial relations and emotional distress. Accordingly, this type of procedure is designed to re-establish trust, to allow reconciliation, and to permit the individuals involved to continue their relationship in an environment designed with mutual goals in mind (Alper & Nichols, 1981; Fiedler, 1985; Folberg & Taylor, 1984; Turnbull & Strickland, 1981).

An essential element of this type of procedure is the opportunity for open communication between participants in order to maximize the exploration of alternatives, address

the needs of all involved, and provide a model for future conflict resolution (Fiedler, 1985; Folberg & Taylor, 1984). The opportunity is provided in mediation for the participants involved to learn and develop their communication and problem-solving skills. This instructional characteristic, common to consensual methods, is one of the reasons that led Murray (1984) to suggest that consensual dispute processing has achieved the point in its growth when it should be allowed to be liberated from its alternative status and premitted to mature as a full-fledged institution.

This type of procedure is seen as particularly applicable in situations where the parties in conflict are forced to have an on-going relationship (Alper & Nichols, 1981; Folberg & Taylor, 1984; Maines & Powell, 1986). In special education, a long-term relationship is demanded of both parents and schools (Singer & Nace, 1985), and, because of this, in the ideal parties must learn to depend on one another for future cooperation if the child is to be assured the provision of an appropriate education (Budoff & Orenstein, 1982; Folberg & Taylor, 1984). Educational mediation focuses its energy on the student's program and this factor is often regarded as its saving grace (Gallant, 1982). In this type of conflict situation both parents and school personnel usually care deeply for the child and the impasse arguably can be overcome by working together to achieve a mutually compatible solution. Mediation decisions, without legal overtones, are kept open and flexible and come closer to keeping the term "appropriate" in perspective (Nissen, 1984).

Costs Associated with Mediation

A major difficulty asociated with the use of adversarial procedures such as the due process hearing has been the high emotional and financial costs experienced by parents who initiate and carryout a due process appeal (Budoff &

Orenstein, 1982; Fiedler, 1985; Folberg & Taylor, 1984; NASDSE, 1978; Turnbull & Barber, 1984; Yoshida, 1982). While the ability of the mediation procedure to allow the decision making power to remain with the individuals involved in the conflict, as well as the opportunity provided in this process to work together, to communicate, and to mutually arrive at a solution for the problem , has served to remove many of the emotional costs associated with due process prodedures, it does not appear that the procedure has been as effective in dealing with the issue of financial costs.

The legalistic and formal nature of the due process heaing made most parents aware that the lack of legal representation could place them at a considerable disadvantage (Fiedler, 1985; Luckasson, 1986; Strickland, 1982). The provision of this less legalistic, less adversarial process was suggested in order to reduce or to eliminate totally the adjudicatory environment surrounding the exercise of due process rights. While the reduction of an adversarial relationship would seem to indicate a concommitant reduction in the need for expensive legal representation, this does not appear to always be the case.

Folberg and Taylor (1984), as well as special interest groups cited in Singer and Nace (1985), suggest that if one considers the advantages of mediation in terms of lower expenditures associated with emotional and financial resources, it is a preferable alternative to the due process hearing. However, it appears that, in practice, parents still feel the need for legal representation (Center for Law and Education, 1985; Singer & Nace, 1985; Yoshida, 1985), and because of this need the costs associated with the use of the mediation procedure may be much higher than originally presumed. For parents the decision to attend the mediation proceedings alone or with an advocate or representative appears to be a major concern. Yet, the use of representation appears to vary from state to state.

Yoshida (1979) studied the extent to which parents in Connecticut used some sort of legal assistance in preparation for due process procedures. The sample consisted of 24 sets of parents, 17 involved in mediation and seven in the due process hearing. Of these, 18 were represented by attorneys, and three by volunteers from state-wide parent groups. Only three sets of parents functioned independenlty, and two of the three indicated they could have benefitted from assistance.

In both Massachusetts and California lay advocates as well as attorneys are available to represent parents at mediation sessions (Singer & Nace, 1985). This use of representation is supported by attorneys and lay advocates involved with special education in Massachusetts who feel that parents should be represented at mediation in order to provide a balance of power and to protect parents' rights (Center for Law & Education, 1985). Singer and Nace (1985) report that in Boston advocates of some type routinely accompany parents to mediation. However, in the central part of Massachusetts the use of advocates in minimal. At the other end of the continuum, data from California indicate that parents there represent themselves at mediation 55 percent of the time. Lay advocates participate in 28 percent of the cases and attorneys in only 17 percent (Singer & Nace, 1985).

It is apparent that a great deal of the legal process involved with the due process hearing has also become associated with the mediation process. Because of this, legal expenses are still a factor in the exercise of due process rights. In relation to these legal costs, it is necessary to consider the effect of the Handicapped Children's Protection Act (P.L. 99-372) on the use of mediation. At the present time, parents can recoup legal costs if they prevail at either the administrative hearing

level or in court. However, the language and intent of the law is unclear in the case of mediation even though there are no regulations prohibiting reimbursement. The issue here appears to be how can one be seen to prevail in a conflict resolution situation that is designed to have no loser. Finally, if consensual methods are to be viewed as least restrictive, then the issue of accountability is crucial (Murray, 1984). There is a need to develop objective criteria to account for the use of both time and money before any conclusions can accurately be drawn as to the cost benefits associated with the use of this procedure.

Accessibility of Mediation

The literature indicates that the fiscal burdens associated with the due process hearing serve to abridge the due process rights of lower income individuals (Budoff, Orenstein & Abramson, 1981; Kotin, 1976; Salend & Zirkel 1984), making it primarily accessible to parents in middle- and upper-income ranges (Budoff & Orenstein, 1981; Budoff, Orenstein & Abramson, 1981; Fiedler, 1985; Lay, 1977; Nissen, 1984; NASDSE, 1978; Strickland, 1982). Although Singer and Nace (1985) report that the claimants in their study came from all socio-economic groups, there are no other data available related to the issue of accessibility to the mediation procedure.

It does appear, however, that the process may offer greater accessibility to lower-income individuals if:

1. the environment of the mediation session is truly less formal than that of the due process hearing,
2. the number of individuals involved in the mediaiton process remains limited, excluding the need for expert witnesses, etc.,
3. the duration of the mediation session remains minimal compared to the formal due process hearing, and

4. the mediation session succeeds in its intent of avoiding a due process hearing and thus avoids lengthy and costly appeals at the state and federal levels.

One additional issue that must be considered is the necessity for representation at a mediation session. If, as some indicate (Center for Law & Education, 1985), representation is necessary to protect parent rights, then it seems crucial that representation be available to all at a cost which does not exclude those with less ability to pay. Yoshida (1979) has suggested that until a coordinated effort is made to assure that, if required, adequate representation is available to all, assistance to parents of children with disabilities is likely to remain uneven and result in the ineffective use of procedural safeguards.

Conclusion

According to Murray (1984), certain characteristics must be associated with a consensual structure if it is to be effective. These characteristics are stability, basic uniformity, open access, a balance of formal and informal power, impartiality, and independence. In addition, Murray (1984) asserts that the consensual structure itself must be based upon the fundamental elements of an institution and must be society-wide, significant, instructional, positive, and well established.

It appears, from reviewing the literature in areas outside of special education, that mediation has the potential to be an effective alternative method of conflict resolution (Alper & Nichols, 1981; Folberg & Taylor, 1984; Maines & Powell, 1986; Marks, Johnson, & Szanton, 1984; Riskin, 1982; Salazar, 1986; Snyder, 1984).

However the characteristics and goals of the mediation process itself-- those characteristics and goals identified previously that lie at the very heart of this type of

consensual method of conflict resolution --give rise to questions related to the actual meaning of mediation in special education.

Additionally, mediation is not mandated by the EHA, but only suggested as a possible alternative (Comment to 34 C.F.R. Sec. 300.506). Therefore, there are neither substantive nor procedural guidelines provided for its use (Singer & Nace, 1985); precedents are not established when mediated settlements are made on special education conflicts because mediated special education settlements do not carry the same force of law as decisions imposed through due process hearings.

These procedural weaknesses lead some attorneys who generally would advocate for a mediated settlement in another area to move directly to a due process hearing in order to avoid a less desirable option reached in a mediation that may, in the long run, weaken the case under consideration (OSERS, 1985).

When and if it can be empirically demonstrated that the "mediation" alternative is a procedure that,

1. maintains the decision making power with the parties involved in the conflict; allowing them to reach a mutual solution to a mutual problem,
2. fosters the development of communication and problem solving skills necessary to maintain a positive working relationship supported by the mutual goal of appropriate education for the child,
3. affords the opportunity to exercise due process rights for reasonable financial and emotional costs, and
4. provides accessibility to all parents of children with disabilities,

then conclusions may be drawn as to its effectiveness, as well as its right to be institutionalized as an alternative method of conflict resolution in special education disputes.

In order to investigate the effectiveness of mediation, therefore, specific variables have been identified that will be utilized to measure effectiveness in relation to parent satisfaction and in view of the suggested positive aspects of mediation.

CHAPTER III

METHOD

The due process hearing historically has been the major avenue utilized by parents and school districts in the attempt to resolve conflicts that arise in relation to the provision of an appropriate education for the child with a disability. This, as well as the other available due process procedures (i.e., prior notice, access to records, the opportunity for an independent evaluation, the right to remain in his/her current placement, the provision of surrogate parents) were designed both as a measure of accountability and as a means of harmonizing the separate, but similar, interests of parents and educators (Kirp, 1976; Turnbull, 1986). Although a number of positive outcomes have been associated with participation in the due process hearing (Budoff & Orenstein, 1982; Strickland, 1982), critical negative effects have also been cited in the literature (Budoff, 1979; Budoff & Orenstein, 1981,1982; Fiedler, 1985; Folberg & Taylor, 1984; Gallant, 1982; Salend & Zirkel, 1984; Strickland, 1982; Turnbull, 1986; Yoshida, 1982).

Because of this, the suggestion has been made to investigate the use of consensual methods of conflict resolution as an alternative to the sole reliance on the due process hearing. The use of a mediation procedure as a possible effective alternative has been recommended (Budoff & Orenstein, 1981,1982; Fiedler, 1985; Folberg & Taylor, 1984; Gallant, 1982; Nissen, 1984; OSERS, 1984; Strickland, 1982; Turnbull & Barber, 1984; Turnbull & Strickland, 1981;Yoshida, 1982). However, while the use of the mediation alternative has grown significantly over the past decade, little

empirical evidence is available as to its effectiveness as an alternative to the due process hearing.

Purpose

Because of this, the purpose of this research project was to provide essential empirical data related to the effectiveness of mediation as an alternative method of conflict resolution.

In the attempt to achieve this purpose, this research was designed to investigate the relationship between parental satisfaction with the processes of the due process hearing and mediation, and parental satisfaction with the outcome(s) of these processes. The research utilized the Parent Satisfaction Survey (Appendix D) to investigate these issues in respect to specific variables.

Sampling Plan

A multistage sampling plan was designed for this research project. Stage One consisted of the selection of states to sample; Stage Two the selection of agencies through which parents would be identified; and Stage Three the actual distribution of the Parent Satisfaction Survey through the auspices of cooperating agencies.

Stage One/Selection of States

In 1983, the National Association of State Directors of Spcecial Education (NASDSE), studied the use of mediation in 38 states and reported some degree of support for the procedure in 87 percent of these 38 states. Eleven provided support through administrative direction. However, where mediation was found to be supported administratively, the nature of such support often differed from state to state. Budoff, Orenstein and Sachitana (1987) report that, as of 1982-1983, eighteen states with state-level managed hearing systems also had in place state-level mediation programs. However, they also report that in states with locally managed hearing systems, as of 1982-1983, only seven of these 21

states had regulations that referred to the use of some type of alternative conflict resolution procedure at the local level prior to state involvement.

Because of these reported variations in support for mediation, the definition of mediation, the method of mediation, the selection and training of mediators (Budoff, Orenstein, & Sachitana, 1987; Gallant, 1983; Singer & Nace, 1985; State of Florida, 1982; Stewert, 1983; and personal researcher contacts) ten states were targeted for inclusion in this study based on the criteria of:

1. administrative support for the use of the mediation process;

2. the development and use of a consistent plan of mediation througout the state; and

3. the emphasis placed on the selection and training of mediators.

The ten chosen states for the research were California, Connecticut, Florida, Illinois, Iowa, Maine, Massachusetts, New Jersey, Oklahoma, and Oregon. Figure One demonstrates to what degree each of these states fulfills the established criteria for inclusion.

INSERT FIGURE 1 HERE

Stage Two/Selection of Agencies

In the attempt to contact the greatest number of parents who had participated in the conflict resolution procedures under study, as well as to reach parents whose children represented a broad spectrum of handicapping conditions, the second stage of the sampling plan was designed to identify and establish contacts with specific state and advocacy organizations. Agencies and organizations are identified and specific details relative to these contacts are described below.

Questions:

1. Is mediation system state/local/two-tiered?
2. Are mediators state employees?
3. Are other individuals used as mediators?
4. Is there a mediator training program?

State	Question One	Question Two	Question Three	Question Four
CA	State run	yes	no	yes
CT	State run	yes	no	yes
FL	two-tiered	no	yes, mediator are state employees, district people, parents, attorneys, advocacy personnel, etc.	yes
IA	two-tiered	some	yes, some work is contracted out.	no
IL	State run	yes	no	yes
MA	State run	yes	no	yes
ME	State run	work for state on contract	no	yes
NJ	three-tiered	yes, at state/ county levels	LEA employees at local	yes
OK	State run	yes	no	yes
OR	two-tiered	no, are appointed by state but paid locally	no	yes

Figure 1. Criteria for Inclusion/State Level

State Departments of Education (DOE): The individual(s) in each state department of education responsible for due process hearing and mediations in that state.

Contact individuals were identified through the assistance of the National Association of State Directors of Special Education, and through the researcher's efforts, based on previously established communication. Because of confidentiality rules and varying methods of record-keeping maintained in each state, the Due Process Unit of the Connecticut State Department of Education was the only state department that participated in the research study.

State Protection and Advocacy Organizations (P&A): The individual(s) in each state Office of Protection and Advocacy who dealt with special education issues.

Contact individuals were identified through the assistance of the National Protection and Advocacy Association. Three protection and advocacy agencies participated in the research. These agencies were in California, Oklahoma, and Oregon.

State Asociations for Retarded Citizens (ARC): The Executive Director of each state-wide Association for Retarded Citizens.

Contact individuals were identified through the asistance of the Association for Retarded Citizens of the United States. Five state-wide Associations for Retarded Citizens, representing Connecticut, Florida, Iowa, New Jersey and Oregon, participated in this research.

State Associations for Children with Learning Disabilities (ACLD): The Director of each state-wide Association for Children with Learning Disabilities.

Contact individuals were identified though the assistance of the National Association for Children with Learning

Disabilities. State Associations for Children with Learning Disabilities in Connecticut, Illinois, and New Jersey participated.

Contact Procedure

In each instance, contact was established by both phone and mail. In phone contacts, individuals were informed of the purpose and benefits of the research, and of the targeted groups of parents. Each mail contact then included:

1. A letter reiterating the purpose of the research and as well as information relative to procedures to be followed if questions arose (Appendix A),
2. An abstract and explanation of the project (Appendix B),
3. A copy of the letter that would accompany the survey to participating parents (Appendix C),
4. A copy of the survey (Appendix D),
5. A copy of the glossary (Appendix E),
6. A response sheet to indicate interest in participation, and the number of surveys to be delivered (Appendix F), and
7. A postage-paid return envelope.

When the response sheets were returned, each state and/or advocacy organization was provided with a specified number of surveys, parent letters, mailing envelopes with postage, and postage-paid return envelopes.

Materials were delivered to the agencies in the following manner. The Parent Satisfaction Survey, the letter that accompanied the survey, and a postage-paid return envelope were placed in stamped but unsealed manila mailing envelopes. These envelopes were then mailed in bulk to each agency. The envelopes containing the Parent Satisfaction Survey and accompanying materials were delivered unsealed in the event

that agencies planned to include their own information with the survey materials.

As a result of these Stage Two contacts, 512 surveys were delivered to state and advocacy agencies for distribution to parents who had taken part in the mediation process and/or the due process hearing.

Stage Three/Identification of Parents

The research project was designed to sample parents/guardians who had already participated in either a due process hearing, a mediation procedure, or a mediation procedure prior to a due process hearing. Relative to the fact that intact groups were utilized, an essential element of the success of this research was the accurate definition of these groups.

All parents to be surveyed were parents of children (pre-school through secondary, identified and classified as in need of special education) who did not agree with school district recommendations concerning their child and who participated in a conflict resolution procedure in the attempt to resolve parent-school conflicts related to identification, evaluation, placement, or appropriate education issues.

The Due Process Hearing Group consisted of:

> Those parents whose child has been identified and classified as in need of special education and who have participated in a formal due process hearing with an impartial hearing officer who has rendered a written opinion in the attempt to resolve parent-school conflicts related to identification, evaluation, placement, or appropriate education issues.

The Mediation Group consisted of:

> Those parents whose child has been identified and classified as in need of special education and who have participated in a mediation procedure with a trained mediator, the result of such a procedure being a mediated agreement between the parents and the school in the attempt to resolve parent-school conflicts related to identification, evaluation, placment, or appropriate education issues.

The Mediation Prior to Due Process Hearing Group consisted of:

> Those parents, whose child has been identified and classified as in need of special education and who have participated in an unsuccessful mediation procedure with a trained mediator and subsequently have participated in a formal due process hearing with an impartial hearing officer who has rendered a written opinion in the attempt to resolve parent-school conflicts related to identification, evaluation, placement or appropriate education.

Distribution and Return Rates

Of the 512 Parent Satisfaction Surveys orginally delivered to participanting agencies for distribution, 308 were actually distributed (Table 1).

TABLE ONE HERE

Table 1

Contact Agencies Distribution and Response

Agency	Number of Surveys Requested	Number of Surveys Distributed	Number of Surveys Returned
California Protection and Advocacy, Inc.	10	10	4
Connecticut* State Department of Education	115		
Connecticut ARC*	25	145*	49*
Connecticut ACLD*	10		
Florida ARC	25	0	0
Illinois ACLD	12	8	2
Iowa ARC	75	25	3
New Jersey ACLD	100	60	0
New Jersey ARC	75	25	8
Oklahoma Protection and Advocacy	25	25	16
Oregon Developmental Disabilities Advocacy Center	10	10	7
Oregon ARC	30	0	0
Totals	512	308	89

*Distribution of all was coordinated by Connecticut State Department of Education

Connecticut which received 150 surveys (115 to the Department of Education, 25 to the Association for Retarded Citizens, 10 to the Association for Children with Learning Disabilities) distributed 145 surveys to parents. The Protection and Advocacy agencies in California (10), Oklahoma (25), and Oregon (10) distributed all surveys sent to them. The Illinois Association for Children with Learning Disabilities distributed eight of their 12 surveys. The New Jersey Association for Retarded Citizens distributed 25 of 75 surveys. The New Jersey Association for Children with Learning Disabilities distributed 40 of 100. The Iowa Association for Retarded Citizens distributed 25 of 75 surveys. In the case of the Florida Association for Retarded Citizens, none of the 25 surveys delivered were distributed because the Director indicated they were inappropriate for parents in the organization who were presently involved in a class action suit. The Oregon Association for Retarded Citizens also did not distribute their 30 surveys because the Oregon Developmental Disabilities Advocacy Organization had the names of the same parents and distributed their surveys to them.

A total of 89 individuals responded to the distributed Parent Satisfaction Survey. These 89 respondents represented an overall response rate of 29 percent. However, state by state response rates varied from 9 to 70 percent with an overall mean response rate of 36 percent (Table 2).

While the researcher was able to initially define the sample population and design an overall sampling plan, issues of both record-keeping and confidentiality prohibited the acquisition of a list of sample participants. Because of this, attempts to increase response rate through the use of a systematic system of follow-up procedures were not possible. The problems with this type of distribution program, as well

as the issues and implications associated with response rate, are discussed in detail in Chapter 5.

Subject Characteristics

Parent Characteristics

Of the 89 parents who did respond to the Parent Satifaction Survey, basic demographic data (Table 2) indicate that the largest number of responses came from Connecticut (49). However, Connecticut also had the largest number of surveys distributed (145). This, therefore, is a return rate of 34 percent compared to states such as Oregon and Oklahoma that distributed fewer surveys respectively (10 and 25) but had higher levels of parental response (70 percent and 64 percent).

Thirty-five of the participating parents had taken part in a mediation procedure only; 29 in a mediation procedure prior to a due process hearing; 18 in a due process hearing only; with seven parents reporting the use of a variety of, or multiple means of conflict resolution which were not under specific study in this research.

Figures 2, 3, and 4 demonstrate the most represented income, educational, and occupational levels of responding parents. Sixty-one percent of the respondents reported incomes in range of $15,000 to $45,000. Additionally, the largest single percentage of mothers responding (41 percent) reported their highest educational level to be college or technical school with 37 percent of the fathers reporting in the same manner.

In relation to occupational levels, 50 percent of the mothers and 57 percent of the fathers reported occupations which fell into the category of Professional, Technical, Managerial, and Self-Employed. Occupational categories were determined through the use of the Dictionary of Occupational Titles (United States Department of Labor, 1977) and are

Table 2.

Survey Response by State Numbers and Response Rate

State	Number Distributed	Number Returned	Response Rate
CA	10	4	40%
CT	145	.49	34%
IA	25	3	12%
IL	8	2	25%
NJ	85	8	9%
OK	25	16	64%
OR	10	7	70%

Mean Response Rate = 36%

discussed more fully in the section of this chapter entitled Item Development.

Insert Figures 2, 3, 4 Here

Child Characteristics

Basic demographic information for children represented by survey responses is provided in Figures 5 through 9.

FIGURES 5-9 HERE

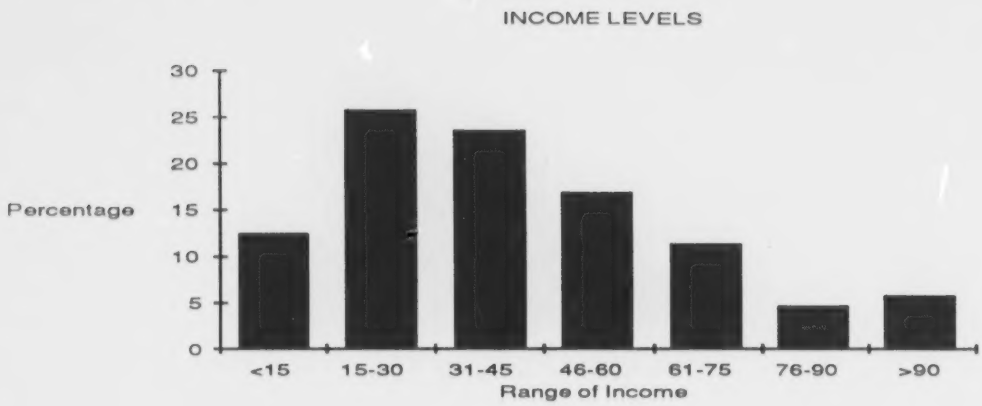


FIGURE 2

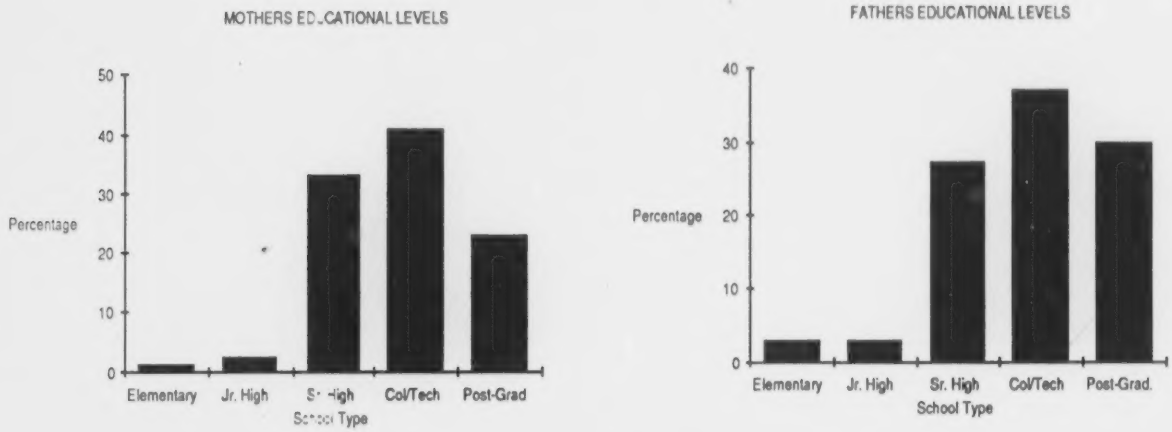
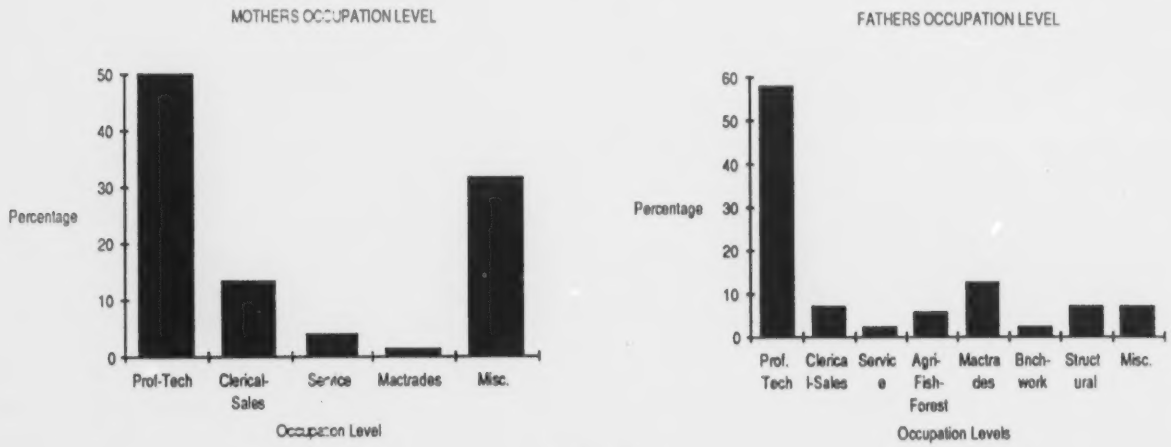


FIGURE 3



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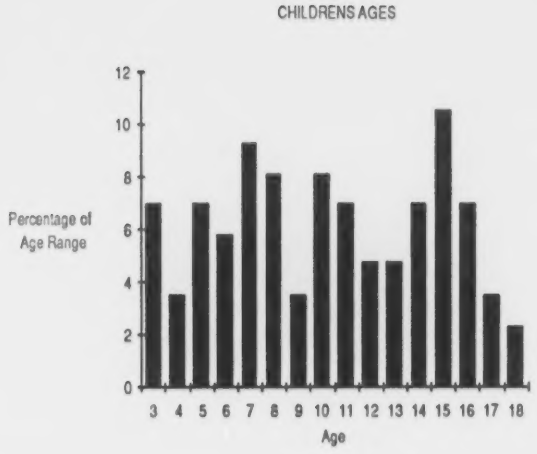


FIGURE 5.

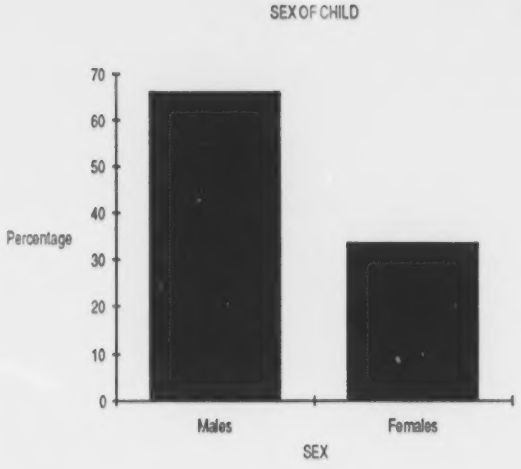


FIGURE 6

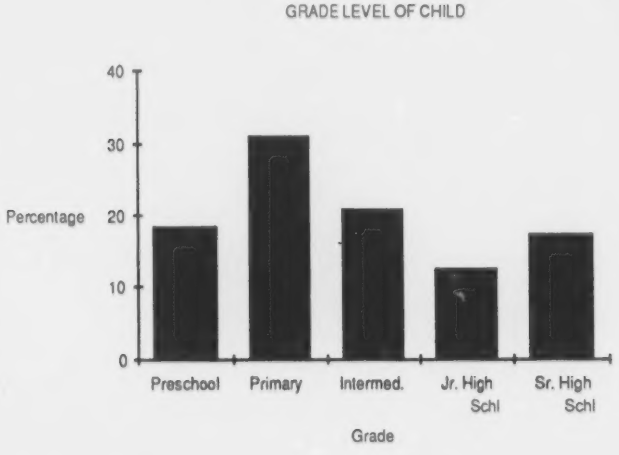
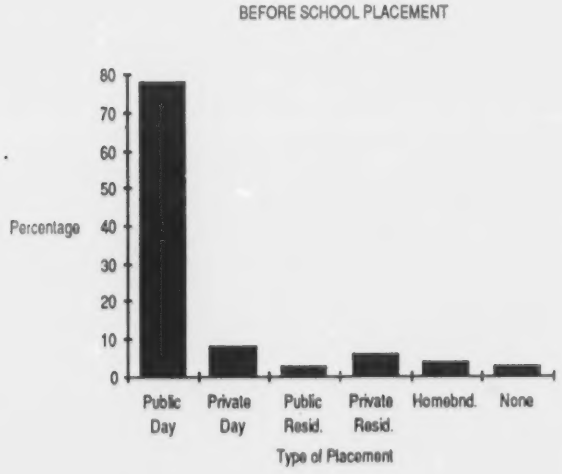


FIGURE 7



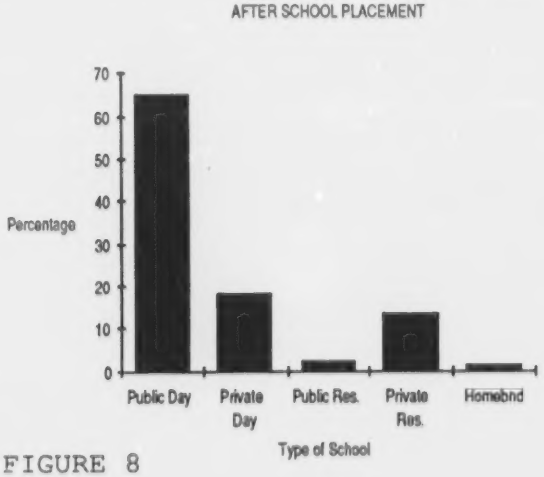
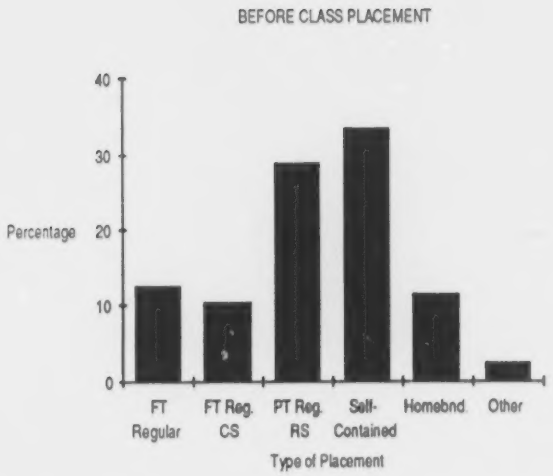


FIGURE 8


BEFORE CLASS PLACEMENT
Percentage
40
30
20
10
0
FT Regular
FT Reg. CS
PT Reg. RS
Self-Contained
Homebnd.
Other
Type of Placement

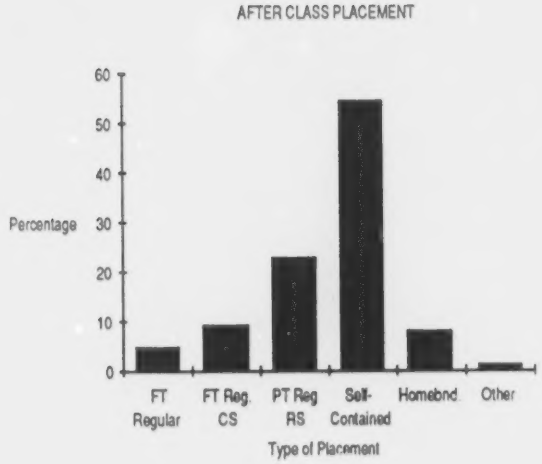

AFTER CLASS PLACEMENT
Percentage
60
50
40
30
20
10
0
FT Regular
FT Reg. CS
PT Reg RS
Self-Contained
Homebnd.
Other
Type of Placement

FIGURE 9

The mean age represented was 10 with 60 percent of the children age 11 and below (Figure 5). The greatest percentage of children reported in this research were males (66 percent) (Figure 6). The primary grades (K-3) accounted for the largest single number of children, 27 (31 percent)(Figure 7). When investigating the child's school placement before and after the conflict resolution method was utilized, the data indicate 78 percent were in public day school before and 65 percent were in public day school after. There was an increase in private day school placements from 8 percent before to 18 percent after (Figure 8). In relation to class placement before, the greatest single percentage (33 percent) were in self-contained classrooms before and after (55 percent). These numbers also reflect the increase in private day school placements (Figure 9).

The majority of parents (80 percent) categorized their child's disability condition as a High Incidence condition (Speech Impaired, Mental Retardation, Learning Disabilities, Emotional Disturbance). The remaining 20 percent categorized their child's condition as falling into the Low Incidence category (Physically Impaired, Visually Impaired, Hearing Impaired, Multiply Handicapped).

A crosstabulation procedure was carried out to identify the relationship between Method of Conflict Resolution Procedure utilized and parents rating of the severity of their child's disability condition. The results (Table 3) indicate that an equal number of parents who used only the mediation procedure rated their child's disabling condition as mild to moderate and severe. For the other two methods of conflict resolution, ratings of severity were also quite close.

Placement issues are discussed in depth in Chapters 4 and 5 in relation to the variables of: nature of the issue which led to the use of a conflict resolution procedure, identified

Table 3.

Information Related to Parent Ratings of Severity and Method of Conflict Resolution Utilized

CRMTHD	Mild/Moderate	Severe	n	Percent
Mediation	17	17	34	43%
Med Before DPH	14	13	27	34.2%
DPH	10	8	18	22.8
Total	41	38	79	

Percentage: 51.9 percent; 48.1 percent
Number of missing observations = 10

category(s) of disability and parent perceptions of severity of disability.

In 74 percent of the cases, the result of the conflict resolution procedure was reported as a change in the identification, evaluation, education, or provision of related services for the child. Twenty-six percent of the cases reported no change (Figure 10).

Survey Development

Rationale

When utilizing survey methods in conducting a research study, choosing the most appropriate survey technique is of critical importance to the ultimate effectiveness of the

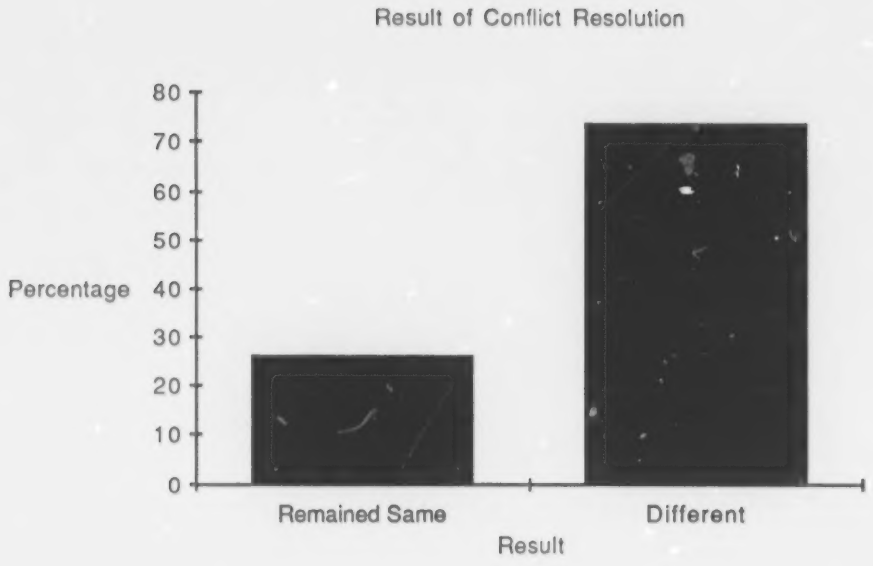


Figure 10. Results of Conflict Resolution

research,as well as to the the ultimate validity and reliability of research results. The research design, the nature of the problem under study, the nature of the population being researched, and the extent of available resources are all important considerations (Frey, 1983).

In the case of this research, a mail survey was selected as the most appropriate research tool. The nature of the problem under study, as well as the nature of the population being researched, were both deemed appropriate for this type of survey methodology.

Parent satisfaction with the due process conflict resolution procedure which they had utilized in respect to its processes and outcome was the problem considered. It was anticipated that the individuals surveyed would be knowledgeable of the topic under consideration since they had participated in one of the methods of conflict resolution, as well as participated in the planning of their child's education. Since it is reported that mail questionnaires have a tendency

to be more valid than phone or personal interviews because they allow the respondents to check their information by verifying records or consulting with others (Nuckols,1964), this appeared to be the appropriate choice for the targeted group of respondents.

While funding for this project was made available through the Student Initiated Research Program of the United States Department of Education, Office of Special Education and Rehabilitative Services, available financial resources were still limited. The utilization of a mail survey was decided upon because it was anticipated to be the most cost and time efficient, geographically flexible,and personnel efficient method of reaching the greatest number of participants (Dillman, 1978; Kanuk & Berenson, 1975). Mail surveys are also described as free from the costs and time consumption of interviewer bias or variability (Boyd & Westfall, 1955; Case & Frankel, 1960; Hochstim, 1967; Jahoda, Deutch & Cook, 1951; Rhysberger, 1967).

An additional consideration in research of this type is the maintenance of the guarantee of confidentiality that accompanies the use of the due process procedures provided through the EHA (Secs. 1417 (c) and 1412 (2)(D)), as well as through the Buckley-Pell Amendment (Sec.438, General Education Provisions Act, as amended by P.L.93-380, Sec. 513). Therefore,in conjunction with requirements of confidentiality and because the research suggests that the relative or promised anonymity of mail surveys encourages respondents to more freely divulge personal information (Knudson, Pope & Irish, 1967; McDonagh & Rosemblum, 1965; O'Dell, 1962; Wiseman, 1972) a confidential mail survey was selected for use.

Also, in accordance with the policies of The University of Kansas in relation to research undertaken with human subjects, participants were informed that their participation

was voluntary and that all information acquired through the survey wuld be confidentially maintained. Participants were, however, provided with the opportunity to request a copy of survey results but the page provided for this was removed from the survey upon receipt with the names and addresses recorded in a separate file. Sixty-five of the 89 respondents (73 percent) provided names and addresses and requested a copy of survey results.

Survey Variables

Development of the Parent Satisfaction Survey (Appendix D) proceeded in several concurrent steps. Through a review of the literature (see Chapter 2) in the areas of conflict resolution, due process in general, the due process hearing in special education, mediation procedures in general, and the mediation alternative in special education, the dependent variables parent satisfaction with the process and parent satisfaction with the outcome were established.

Six major independent variables were then identified as most applicable to this research:

1. Conflict resolution procedure utilized,
2. The nature of the conflict that led to the development of a problem between the parents and the schools,
3. The nature/severity of the child's handicapping condition,
4. Age of the child,
5. Socio-economic status of the parents/family, and
6. Interpersonal relationships between the parents and school personnel (classroom teacher, related services personnel, and school administration) before, during, and after taking part in one of the above-mentioned methods of conflict resolution.

These variables were chosen because the literature suggested that they held the potential to be indicators of

not only the specific conflict resolution procedure chosen, but also of the satisfaction with both the chosen procedure,as well as the outcome(s) of that procedure.

Conflict Resolution Procedure. A number of studies (Budoff & Orenstein, 1982; Fiedler, 1985; Strickland, 1982; Yoshida, 1982) indicate that the due process hearing model is not living up to its potential as a method of conflict resolution. In addition, recent literature indicates a growing interest in alternative methods of conflict resolution (Budoff & Orenstein, 1982; Fiedler, 1985; Gallant, 1982; NASDSE, 1978,1982; OSERS, 1984; Strickland, 1982; Turnbull & Barber, 1984; Yoshida, 1982) and, the effectiveness of such alternatives (Ekstrand & Edmister, 1984; Nissen, 1984; Singer & Nace, 1985).

Nature of the Conflict. The literature, to date, appears to indicate that placement disputes are the most often cited reason for the rejection of the Individualized Educational Plan (IEP) and the filing of an appeal for due process (Brady, 1984; Budoff & Orenstein, 1982; Kammerlohr, Henderson & Rock, 1983; NASDSE, 1978; Strickland, 1982; Turnbull, 1986). The assumption was proferred that, since the majority of previous research findings reported were collected in the mid-to-late seventies and early-eighties, as more programs were provided to a wider range of students with a broadened spectrum of disabilities, the conflicts leading to the utilization of due process may presently differ.

Nature/Severity of Handicapping Condition/Age of Child. According to available data, parents of students with learning disabilities (Budoff & Orenstein, 1982) or behavior disorders (Kammerlohr, Henderson, & Rock, 1983) were more likely to utilize available due process procedures. Age was included as a variable because it was included in a previous Budoff and Orenstein study (1982) that dealt with the due process hearing model but did not collect data on the

mediation procedure. Age was also included in the attempt to ascertain if parents of pre-school, elementary, or secondary students were more likely to express satisfaction or dissatisfaction in light of more available pre-school services and the growing demand for more effective secondary and post-secondary programs (Bellamy,1983; Swan, 1981; Will, 1984).

Socioeconomic Status. There has been a tendency for upper and upper-middle class parents to resort to due process procedures more readily than other socioeconomic groups (Department of Health, Education, & Welfare, 1978; NASDSE, 1978; Salend & Zirkel, 1984; Strickland, 1982). This may be due to the fact that often parents from lower socioeconomic classes are not only more content with the special education system but also less aware of their available due process rights (Bratlinger, 1987). Other reasons may be the high costs of going to a hearing, as well as the unavailability of time, money, and resources for low income and minority parents (Strickland, 1982). It may occur that the projected (Center for Law and Education, 1985; Singer & Nace, 1985; Yoshida, 1985) lower costs attached to the use of a mediation procedure may open the door to appeals from lower income families.

Interpersonal Relationships. Parents of children with disabilities and the schools, because of the nature of the special education system, are forced into long-term relationships (Singer & Nace, 1985). Because of this and the many problems associated with parent participation (Yoshida, 1982), interpersonal relationships appeared to be a variable with the potential to indicate not only why parents make the ultimate decision to utilize a due process conflict resolution procedure but also which procedure they choose to utilize. Mitchell (1976) and Strickland (1982) also suggest the importance of measuring parent-school interpersonal

relationships during and after experiencing the due process hearing or the mediation procedure.

In addition to these variables, survey items related to outside support utilized and financial and emotional costs experienced in preparing for and participating in the conflict resolution procedure were also included. The decision to investigate these issues was also based on information acquired thorugh the review of the literature.

Outside Support Utilized/Financial Costs. Parties in a due process hearing have been provided with the right to counsel, the right to present evidence, and the right to confront and cross-examine witnesses (Sec.1415 (e)(2)). However, as Yoshida (1979) suggests, a statement of rights does not automatically constitute the competent exercise of these rights. Fiedler (1985) and Strickland (1982) indicate that, due to the legalistic and formal nature of most due process hearings, most parents have recognized that the absence of an attorney can place them at a considerable disadvantage. Luckasson (1986) also reports that the types of behaviors that parents are required to possess in participating in a due process hearing are clearly advocacy skills that lay parents would typically not be able to perform at a high level without the assistance of a lawyer. In relation to participation in the mediation procedure, it is reported that parents still feel the need for legal representation (Center for Law & Education, 1985; Singer & Nace, 1985; Yoshida, 1985), and because of this need the costs associated with the use of the mediation procedure may be much higher than originally presumed. It appears that for parents the decision to attend the mediation session alone or with an advocate is a major consideration, with the use of representation demonstrated in the literature to vary considerably from state to state.

Emotional Costs. Budoff, Mitchell, and Kotin (1976), Budoff and Orenstein (1981,1982), Fiedler (1985), Strickland (1982), and Turnbull (1986) suggest that besides the high financial costs incurred, parents also pay a high emotional price for their participation in the due process hearing. Considerable frustrations are evidenced in negotiating the complex bureaucracy of the schools, and, as Budoff and Orenstein (1981) report, the bureaucracy becomes increasingly antipathetic as the hearing preparations proceed. It has been reported that the legal trappings associated with participation in the due process hearing have been carried over in many cases to participation in the mediation process (Center for Law & Education, 1985; Singer & Nace, 1985; Yoshida, 1985). While there is little reported evidence as to the emotional costs incurred by participation in the mediation process, it follows that this is an area of concern which must be investigated especially if we are to prescribe mediation as a possible alternative to the due process hearing.

Item Development

Survey items were generated, reviewed, and revised based on five dimensions.

1. the dependent variables of satisfaction with process and satisfaction with outcome(s) of the process;

2. the six major independent variables chosen because of their suggested potential as predictor variables;

3. the additional issues of outside support and financial and emotional costs suggested by the review of the literature;

4. the demographic information required; and

5. the audience for whom the survey instrument was designed;

In relation to the Parent Satisfaction Survey, a pool of items was generated relative to each of the above

mentioned variables and/or essential characteristics. Based on this item pool, and in cooperation with Dissertation Committee members, items were modified, deleted, or added to the survey. A total of eight drafts were developed prior to the final draft. For every draft, the researcher and Dissertation Committee members logically analyzed each item in relation to its content validity determining that, in fact, each item was representative of the specific variable being measured.

Forty-six items were utilized in the final Research Edition Parent Satisfaction Survey. Appendices G and H provide specific information as to each item's relation to particular variables or particular research issues under study.

Eighteen of the items required the respondent to indicate his/her opinion or choice(s) by checking one or more of two to ten possible responses. Specific decision rules related to multiple response items are discussed in Chapter Four. These eighteen choice items related to:

1. method of conflict resolution procedure (1)
2. nature of the conflict (1)
3. nature/severity of handicapping condition (2)
4. child's sex (1)
5. grade level/school/class placement (5)
6. result of conflict resolution procedure (1)
7. outside support during preparation (1)
8. outside support during participation (1)
9. accessibility of outside support (2)
10. appeal (2)
11. family income level (1)
12. parent educational level (1)

Twenty-four items were designed on a five point Likert-type scale. Twelve of these items required the respondent to rate his/her choice or opinion on a five-point scale from

Very Poor to Very Good. Of these twelve, all related to the general independent variable of interpersonal relationships. The remaining eleven Likert-type items required the respondent to rate his/her choice or opinion on a five-point scale from Very Low to Very High. Of these eleven items, seven required the respondent to rate his/her level of satisfaction, three related to financial and emotional costs, and one to the likelihood that a particular method of conflict resolution would be utilized again.

Four open-ended items referred to the child's age, the respondent's state of residence, the respondent's occupation, and major reasons why the respondent is satisfied or dissatisfied with the particular method of conflict resolution utilized. In the case of each open-ended item, responses received were categorized and coded for ease of data entry.

State identification was coded by means of a simple nominal level numerical scale from 0-10.

Parent's occupations were coded and categorized based on the three-digit occupational group codes available through the Dictionary of Occupational Titles (United States Department of Labor, 1977). Each reported occupation was coded individually and then placed within one of nine major categorical divisions. These divisions were:

1. Professional,Technical, Managerial Occupations, and
2. Self-Employed at this level
3. Clerical and Sales Occupations
4. Service Occupations
5. Agricultural, Fishery, Forestry, and Related Occupations
6. Processing Occupations
7. Machine Trades Occupations
8. Benchwork Occupations

9. Structural Work Occupations

10. Miscellaneous Occupations

For more specific information relative to occupations, see Appendix I, the Data Analysis Code Book, prepared for this research study.

Major reasons for satisfaction or dissatisfaction with the method of conflict resolution utilized were identified by a three diget code beginning with one for reasons for satisfaction and two for reasons for dissatisfaction. These responses and their method of categorization are discussed in detail in Chapter 4 and parents' comments are included in their entirety in Appendix J.

Glossary

Because of the issues of vocabulary and readability, a decision was made to include in the body of the survey a Glossary of the major items which might cause parents and/or other lay persons some difficulty. A pool of thirty-four terms was originally generated. These terms were defined based on researcher, Dissertation Committee members, and special education faculty expertise; on general definitions used in special education texts; and on field-test results.

The Glossary went through two major revisions before it was determined to be appropriate for parents and other lay persons. The final version is included in Appendix E.

Parent Letter

The letter which accompanied the survey to parent respondents was also reviewed and modified through the efforts of the researcher, Dissertation Committee members, and field-test participants. Five major revisions were made before the final version was accepted. A copy of this letter is included in Appendix C.

Field Testing

The survey items, the terms included in the Glossary, and the parent letter were field tested with a variety of groups

of individuals in order to assure appropriateness of content and vocabulary. The categories of field test responses and frequency percentages are included in Table 4. Field test group membership is explained below.

Parents. Parents who had a child receiving special education services but who had not taken part in either the due process hearing or the mediation procedure were utilized in order to not deplete the sample pool. Parents who participated included four parents who were members of an advocacy organization, each of whom had a child presently being served by an urban school district. Each parent admitted having faced occasional problems with the school district, but in none of the cases did the problems require the use of a formal method of conflict resolution. Four parents of students in a secondary-level program provided through a suburban school district also participated. The participation of these parents was acquired through the joint cooperation of an advocacy organization and the school district. These individuals also reported occasional conflicts with the school district however none required the use of a formal method of conflict resolution.

School District Personnel. Classroom special education teachers, related services personnel, and special education administrators comprised this group. Participants included employees of three separate school districts. The three districts utilized provided representation of urban, suburban, and rural special education environments. The school district personnel group consisted of seven administrators, eight special education classroom teachers, and one social worker.

Special Education Faculty. The membership of this group consisted of a total of six special education faculty members

Table 4.

Field Test -- Participant Responses

Questions	Unqualified Yes		Yes with Suggestions		Undecided etc.		Unqualified No		No with Suggestions		No Response etc.	
	N	%	N	%	N	%	N	%	N	%	N	%
1. Do the items in the survey relate to the variables we are trying to study?	18	60	0	0	0	0	0	0	6	20	6	20
2. Do the items in the survey ask the information in a clear and understandable way?	11	37	9	30	0	0	0	0	5	17	5	17
3. Are the directions in the survey clear and concise?	21	70	4	13	1	3	0	0	2	7	2	7
4. Do you feel that any of the information asked for in this survey is threatening to parents in any way?	2	7	3	10	0	0	14	47	9	30	2	7
5. Do you feel that the letter that will be sent with the survey clearly informs the parents of the reasons for and the procedures involved in the survey	19	63	0	0	7	23	2	7	0	0	2	7
6. Do you feel the wording of the letter is clear and understandable for the majority of parents?	15	50	9	30	0	0	3	10	0	0	3	10
7. Do you feel that the definitions provided in the Glossary are clearly explained?	17	57	10	33	0	0	1	3	0	0	2	7

from two universities. Comprising this group were representatives from five separate categorical areas of special education:

1. Severe and Multiple Handicaps (1)
2. Special Education Administration (1)
3. Educable and Trainable Mentally Handicapped (1)
4. Special Education Law and Policy (1)
5. Emotional Disturbance (2)

Two individuals in this group were also attorneys as well as parents of a child with a disability. One individual also served as a due process hearing officer.

Field test participants were provided with draft copies of the Parent Satisfaction Survey (Appendix D), the Glossary (Appendix E), and the letter which was to accompany the survey materials (Appendix C). They were provided with a document (Appendix K) that consisted of: a description of project purposes and goals, information related to the importance of their role in this research, and six questions to respond to in relation to (a) the variables under study, (b) the clarity of the survey items, (c) the clarity of survey directions, (d) threatening questions, (e) the clarity of the parent letter, and (f) the vocabulary utilized. Additionally, there was a seventh open-ended question that offered participants the opportunity to provide specific comments related to the survey, the glossary, and the parent letter.

Field Test Results

Field test results presented in Table 4 are described in detail in this section.

1. Do the items in the survey relate to variable we are trying to study (such as: satisfaction with each of the processes, satisfaction with the outcomes of these processes, the conflict resolution procedure used, the nature of the conflict, the severity of the child's disability, the age of

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the child, parent-child-school personnel interpersonal relationships, and the socio-economic status of the family)?

Of the 24 individuals who responded to this question, 18 indicated that the items in the survey clearly related to the major variables under study. Six individuals questioned parents possible understanding of specific items related to identification and related services issues.

2. Do the items in the survey ask the information in a clear and understandable way?

Of the 25 individuals who responded to this question, 11 responded with an unqualified yes. Nine participants indicated yes with some qualifications such as, familiarity with special education jargon, confusion over change in response demands, and breaking longer questions into sections. Five participants felt the items were not clear and understandable and each cited the sophistication of the language as the problem.

3. Are the directions in the survey clear and concise?

Of the 28 responses to this question, 21 respondents felt the directions were clear and concise and reported no problems. Four respondents replied yes with specific suggestions related to particular survey sections. Two individuals felt the directions were not clear due to readibility level and excessive verbiage. One parent felt the directions were too simplistic considering the material covered in the parent letter.

4. Do you feel that any of the information asked for in this survey is threatening to parents in any way?

There were 28 responses to this question. Of these, fourteen indicated that the information requested was not threatening. Nine respondents indicated that certain items may be threateninng (i.e., personal data, income, educational levels, etc.) but that this did not appear to be a major issue. Three respondents felt the items were threatening and

offered suggestions related to language, length, and possible feelings of inadequacy. Two respondents felt the information was threatening and offered no suggestions.

5. Do you feel that the letter that will be sent with the survey clearly informs the parents of the reasons for and the procedures involved with the survey?

Twenty-eight individuals responded to this question. Of these, 19 responded yes. Two individuals responded no and seven were undecided but offered specific suggestions related to language, follow-up, number of mailings, etc.

6. Do you feel that the wording of the letter is clear and understandable for the majority of parents?

There were 27 responses to this question. Fifteen of the responses indicated that participants felt the letter was clear and understandable. Nine respondents appeared to have positive feelings but also offered specific suggestions related to syntax, examples, vocabulary, etc. Three school district personnel felt the letter was not clear and understandable.

7. Do you feel that the definitions provided in the Glossary are clearly explained?

Twenty-eight individuals responded to this question. Seventeen felt the definitions were clearly explained. Ten respondents indicated positive responses for the most part but offered specific suggestions such as, comprehension level, changes from district to district, use of the Glossary, specific items, etc. One individual replied no and indicated "educationese" as the problem.

Field test results were utilized to make modifications in the Parent Satisfaction Survey, the Glossary, and the parent letter that would acompany the survey.

Statement of Hypotheses

Two major hypothese were tested in this research in the effort to investigate the relationship between parental satisfaction with the processes of the due process hearing and mediation and parental satisfaction with the outcome of these process.

1. There is no significant relationship between satisfaction with the process utilized and each of the independent variables either alone or as a composite.

2. There is no significant relationship between satisfaction with the outcome(s) of the process utilized and each of the independent variables alone or as a composite.

In addition, to these primary hypotheses, eight secondary hypotheses were tested relative to identified variables of concern.

3. There is no significant difference in satisfaction with process based on group membership.

4. There is no significant difference in satisfaction with outcome(s) of the process based on group membership.

5. There is no significant difference in ratings of interpersonal relationship based on group membership.

6. There is no significant difference in financial cost based on group membership.

7. There is no significant difference in emotional cost to parents based on group membership.

8. There is no significant difference in emotional cost to families based on group membership.

9. There is no significant difference in income levels based on group membership.

10. There is no significant difference in reuse of conflict resolution procedure based on group membership.

The data were analyzed utilizing multiple regression analysis procedures, univariate and multivariate analysis of variance procedures, and descriptive statistical procedures available through SPSS-X.

This research utilized the Parent Satisfaction Survey to investigate parental satisfaction with the processes of the due process hearing and mediation and parental satisfaction with the outcome(s) of these processees. The Parent Satisfaction Survey was developed based on major variables identified through the review of the literature and was distributed under the auspices of participating agencies selected through a multi-stage sampling plan. Survey distribution resulted in an overall response rate of 29 percent based on one mailing with no opportunity for follow-up.

CHAPTER IV

RESULTS

This research study was designed to investigate the effectiveness of mediation as an alternative method of conflict resolution in special education. A major objective of the study was the provision of essential and, for the most part, presently lacking empirical data in this area. The research was designed to investigate the relationship between parental satisfaction with both the processes and the outcomes of the due process hearing and mediation in relation to major variables identified through the review of the literature as potential indicators not only of specific conflict resolution procedure chosen but also satisfaction with both the chosen procedure, as well as the outcomes of that procedure.

The major variables considered were (a) conflict resolution procedure utilized, (b) nature of the issue that led to the development of a problem between the parents and the schools, (c) nature/severity of the child's disability, (d) age of the child, (e) socio-economic status, and (f) interpersonal relationships.

Additional variables investigated include (g) financial cost, (h) emotional cost, (i) the use of and satisfaction with outside support during both preparation for and the conflict resolution procedure

Findings reported are the result of testing the hypotheses stated in Chapter 3, as well as additional testing related to the variables identified above. The data were analyzed utilizing the following statistical procedures.

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1. A Multiple Regression Analysis for each of the two research questions utilizing those variables that could be analyzed accurately through these procedures.

2. ONEWAY Analyses of Variance on: procedure satisfaction/conflict resolution method; outcome satisfaction/conflict resolution method; interpersonal relationships/conflict resolution method; financial cost/conflict resolution method; parent emotional cost/conflict resolution method; family emotional cost/conflict resolution method; income level/conflict resolution method; and reuse/conflict resolution method.

3. A Multivariate Analysis Variance of interpersonal relationships/conflict resolution procedure by type and by time.

4. Descriptive statistics, means, standard deviations, frequencies and percentages.

Statistical significance was established at the .05 level prior to initiation of the research study.

This chapter is divided into four major sections:

I. Results of Statistical Analyses
II. Summary Data on Major Variables
III. Information Related to Outside Support
IV. Summary of Results

SECTION I

Information in this section provides the results of multiple regression procedures, univariate and multivariate analysis of variance procedures, as well as descriptive statistics.

Multiple Regression Procedures

Procedure Satisfaction

In order to determine if there was a significant relationship between procedure satisfaction and the major

variables under study, multiple regression procedures were undetaken in order to test the two null hypothesis:

1. There is no significant relationship between satisfaction with the process used and each of the independent variables utilized either alone or as a composite.

2. There is no significant relationship between satisfaction with the outcome(s) of these processes and each of the independent variables utilized either alone or as a composite.

A total procedure satisfaction score was determined by summing the scores of four survey items which related directly to procedure satisfaction: ROLESATP, `ROLESATO, SATOVER, TIMESAT. This summated variable was identified as PROSAT and utilized as the dependent variable in the multiple regression procedure. (All variable labels are defined in Appendix I, The Data Analysis Code Book).

In order to utilize Interpersonal Relationship as an independent variable in this procedure, nine survey item scores were summed and the variable INTPER created. Method of Conflict Resolution was included with the three groups ranked according to degree of purported adversarialness based on information from the review of the literature and mean ratings of satisfaction measures (Mediation =0; Mediation Before Due Process Hearing =1; Due Process Hearing =2) and identified as ADCR. The Severity of Handicapping Condition variable utilized in the Multiple Regression Procedure is identified as SEV2. The AGE variable was included in its standard form and the INCOME variable was included as the measure of SES.

Two major variables, Nature of Issue and Identified Category of Disability, were not included in the Multiple Regression Procedure because each utilized a multiple response form and when recoded provided problems with homogeneity of variance. Information on each, however, is provided in Section Two of this chapter.

The Multiple Regression Procedure was executed utilizing stepwise entry with the variables: PROSAT, SEV2, INCOME, AGE, INTPER, ADCR. Prior to the execution of the multiple regression procedure, investigation of the correlation matrix indicated the strongest linear relationships to be between PROSAT and ADCR (.244) and INTPER (.239). This information is included in Table 5.

Table 5

Correlation Matrix - PROSAT

	PROSAT
PROSAT	1.000
SEV2 .029	
INCOME	.176
AGE .009	
INTPER	.239
ADCR .244	

During stepwise entry ADCR entered on step one, INTPER entered on step two. No other variables met the entry requirements.

Summary data indicate that the variables demonstrating the strongest relationship with Procedure Satisfaction

(PROSAT) and accounting for the greatest amount of variance were ADCR and INTPER. Table 6 demonstrates these results.

Outcome Satisfaction

In order to determine if there was a significant relationship between outcome satisfaction and the major variables under study, a total outcome satisfaction score was determined by summing the scores of three survey items which related directly to outcome satisfaction: RESSAT, SATOVER, REUSE. This summated variable was then identified as OUTSAT and utilized as the dependent variable in the multiple regression procedure (all variable labels are defined in Appendix I, The Data Analysis Code Book).

Table 6.

Multiple Regression Summary Table - PROSAT

Step	MulR	Rsq	Adj Rsq	F	Sig F	Rsq Chg	F Chg	Sig Chg
1	.2443	.0597	.0470	4.695	*	.0597	4.695	*
2	.3582	.1283	.1044	5.372	**	.0686	5.748	*

*p < .05
**p < .01

The same independent variables defined and explained in the previous section on procedure satisfaction were utilized in this multiple regression procedure. This procedure was also executed utilizing stepwise entry with the variables: OUTSAT, SEV2, INCOME, AGE, INTPER, ADCR.

Prior to the execution of this multiple regresssion procedure, investigation of the correlation matrix (Table 7) indicated the strongest linear relationship to be between OUTSAT-Outcome Satisfaction and INTPER-Interpersonal Relationships (.288).

During stepwise entry INTPER entered as step one, ADCR entered as step two. No other variables met the entry requirements.

Summary data indicate that the variables with the strongest relationship with OUTSAT and accounting for the greatest amount of variance were INTPER (Interpersonal Relationships) and ADCR (Conflict Resolution Procedure). Table 8 demonstrates these results.

Table 7.

Correlation Matrix/OUTSAT

	OUTSAT
OUTSAT	1.000
SEV2	.007
INCOME	.213
AGE	.022
INTPER	.288
ADCR	.214

Table 8.
Multiple Regression Summary Table - OUTSAT

Step	MulR	Rsq	Adj Rsq	F	Sig F	Rsq Chg	F Chg	Sig Chg
1	.2885	.0832	.0708	6.717	**	.0832	6.717	**
2	.3758	.1412	.1177	6.001	**	.0580	4.928	

*p < .05
**p < .01

The results of both of these multiple regression procedures do not support the acceptance of the null hypothese.

In the case of Satisfaction with Process, both Interpersonal Relationships (INTPER) ($p < .01$) and Conflict Resolution Procedure (ADCR) ($p < .05$) demonstrated significant relationships.

In the case of Satisfaction with Outcome both Conflict Resolution Procedure (ADCR) ($p < .01$) and Interpersonal Relationships (INTPER) ($p < .01$) demonstrated significant relationships.

Analysis of Variance Procedures

Analysis of Variance is one of the statistical procedures commonly utilized to test the hypothesis that several population means are equal. Based on the original purpose of the research project to investigate the effectiveness of mediation as an alternative to the sole use of the due process hearing in special education, a ONEWAY Analysis of Variance procedure was conducted with the null hypotheses that:

3. There is no significant difference in satisfaction with process based on group membership.

4. There is no significant difference in satisfaction with outcome of the process based on group membership.

Satisfaction with Process/Conflict Resolution Procedure

The dependent variable of Satisfaction with Process (PROSAT) was the same summated variable explained previously in this chapter. The independent variable of Conflict Resolution Procedure (CRMTHD) consisted of three groups: Mediation Only (N = 35); Mediation Prior to the Due Process Hearing (N = 28); Due Process Hearing Only (N = 18). While there were unequal n's represented, homogeneity of variance tests, Cochrans C (p = .513) and Bartlett-Box F (p = .608), had large enough significance levels to indicate that the assumption of homogeneity of variance could be accepted.

Results of the ONEWAY procedure indicate there was no significant difference in procedure satisfaction between the groups F (2,80) = 1.2885, ns. Table 9 provides means and standard deviations for PROSAT/CRMTHD.

Table 9.

Means and Standard Deviation PROSAT/CRMTHD

Group	N	X	sd
Mediation	35	11.2	3.4
Med. Before DPH	28	12.1	3.8
DPH	18	12.8	4.2
Total	80	11.9	3.7

f prob = .28
Mean Response Level per Item = 2.9 on a scale from 1-5

Satisfaction with Outcome/Conflict Resolution Procedure

The dependent variable of Satisfaction with Outcome (OUTSAT) was the same summated variable explained earlier in

this chapter. The independent variable of Conflict Resolution Procedure (CRMTHD) consisted of the three groups defined in the previous section.

Results of this ONEWAY procedure indicate there was no significant diference in procedure outcome satisfaction between the groups F (2,80) = 1.06, ns. Table 10 shows the means and standard deviations for OUTSAT/CRMTHD.

Table 10.

Means and Standard Deviations OUTSAT/CRMTHD

Group	n	X	sd
Mediation	35	9.4	3.3
Med. Before DPH	28	10.3	3.0
DPH	18	10.7	3.5
Total	80	10.0	3.3

f prob.= .35
Mean Response Level per Item = 3.3 on a scale from 1-5.

These two ONEWAY Analysis of Variance Procedures indicate that the hypotheses of no significant difference in either satisfaction with process or satisfaction with the outcome of the process based on group membership should be accepted.

Although results of these ONEWAY Analyses of Variance demonstrated no significant difference in Satisfaction with Process or Outcome based on Conflict Resolution Procedure, in the Multiple Regression procedure this variable identified as ADCR accounted for the greatest amount of variance when studying satisfaction with process and a significant amount of variance when studying satisfaction with the outcome of the process.

Proceeding in the investigation of the effectiveness of mediation as an alternative to the sole use of the due process hearing, ONEWAY Analysis of Variance procedures were conducted based on the null hypotheses:

5. There is no signficant difference in interpersonal relationships based on group membership.

6. There is no significant difference in financial cost based on group membership.

7. There is no significant difference in emotional cost to parents based on group membership.

8. There is no significant difference in emotional cost to families based on group membership.

9. There is no significant difference in income levels based on group membership.

10. There is no significant difference in reuse of conflict resolution procedure based on group membership.

Interpersonal Relationships/Conflict Resolution Procedures

The dependent variable of Interpersonal Relationship (INTER) was the same nine item summated variable described in the Multiple Regression section of this chapter. The independent variable of Conflict Resolution Procedure (CRMTHD) consisted of the three groups defined previously.

Results of the ONEWAY procedure indicate there is no significant difference in ratings of interpersonal relationships between the three groups $F(2,80) = .65$, ns. Table 11 provides means and standard deviations for INTPER/CRMTHD.

Table 12 provides overall means and standard deviations for Interpersonal Relationship Items. This information is included because it demonstrates the difference in interpersonal relationships for the three groups of school personnel for whom relationships were rated.

In order to further investigate the variable, INTPER (Interpersonal Relationships), a repeated measures Mulivariate Analysis of Variance was conducted with the

Table 11.

Means and Standard Deviations INTPER/CRMTH

Group	n	X	sd
Mediation	35	33.3	10.8
Med Before DPH	29	30.5	11.2
DPH Only	18	30.8	9.9
Total	82	31.8	10.7

f prob. = .56
Mean Response Level per Item = 3.5 on a scale from 1-5.

dependent variable INTPER and the independent variable, CRMTHD by Type (Teacher,School Administration, Related Services Personnel) and by Time (Before, During, After the Conflict Resolution Procedure). This procedure indicated a significant main effect for Type (f sig. = .000) and Time (f sig. = .001), as well as a significant interaction between Type and Time (f sig. = .000) (Table 13).

Table 12.

Overall Mean and Standard Deviations-Interpersonal Relationships

Relationships	x	sd
Parent/Teacher Before	3.2	1.2
Parent/Teacher During	2.9	1.2
Parent/Teacher After	3.2	1.3
Parent/Administrator Before	2.6	1.1
Parent/Administrator During	2.0	1.1
Parent/Administrator After	2.2	1.1
Parent/RS Before	3.1	1.1
Parent/RS During	3.0	1.0
Parent/RS After	3.5	1.0
Parent/Teacher Collapsed	3.1	.11
Parent/Administrator Collapsed	2.3	.24
Parent/RS Collapsed	3.1	.10

It must be taken into consideration in reviewing this Interpersonal Relationship data that although results of the ONEWAY Analysis of Variance demonstrated no significant difference in interpersonal relationships based on group membership, in the Multiple Regression procedure this variable demonstrated a significant relationship with satisfaction with process and satisfaction with outcome. Inspection of the standard deviations displayed in the Means and Standard Deviation INTPER/CRMTHD Table (Table 11), indicates that these large standard deviations served to make this variable a powerful influence in the Multiple Regression Procedure because this large demonstrated variability affected the increments of R.

Table 13.

Multivariate Analysis of Variance Source Table

Source	SS	df	MS	F	Fsig
W/Cell	201.76	120	1.68		
Type	64.79	2	32.40	19.27	**
CRMTHDx Type	.68	4	.17	.10	ns
W/Cell	102.69	120	.86		
Time	6.64	2	3.32	3.88	*
CRMTHDx Time	2.29	4	.57	.67	ns
W/Cell	85.45	240	.36		
Type x Time	5.39	4	1.35	3.79	**
CRMTHD x Type x Time	1.14	8	.14	.40	ns

*p < .05
**p < .01

Financial Cost/Conflict Resolution Method

The dependent variable of Financial Cost (FINCOST) was based on an item in the Parent Satisfaction Survey that requested the respondents to rate financial costs involved in taking part in the conflict resolution procedure on a five point Likert-Type scale from 1 - very low to 5 - very high. The

independent variable Conflict Resolution Procedure (CRMTHD) has been explained previously.

Results of the ONEWAY procedure indicate that there is no significant difference in ratings of financial cost between the groups at the .05 level F (2,79) = 2.7189, ns. Table 14 provides means and standard deviations for FINCOST/CRMTHD.

Table 14

Means and Standard Deviations FINCOST/CRMTHD

Group	n	X	sd
Mediation	35	2.5	1.3
Med. Before DPH	27	3.0	1.7
DPH	18	3.6	1.6
Total	80	2.9	1.5

f = prob = .07 not significant

Parent Emotional Cost/Conflict Resolution Method

The dependent variable Parent Emotional Cost (PEMOCOST) was based on an item in the Parent Satisfaction Survey that requested respondents to rate emotional costs to them as parents on a five point Likert-Type Scale from 1 - very low to 5 - very high. The independent variable Conflict Resolution Procedure (CRMTHD) is the same as previously described.

Results of this ONEWAY Procedure are specified in Table 15 and indicate that there is a significant difference in ratings of emotional costs between the groups at the .05 level F (2,80) = 3.1431, $p < .05$. The Duncan Multiple Range Test additionally specifies these significant differences to

be between Group One (Mediation) and Group Three (Due Process Hearing).

These data indicate that while all ratings of emotional cost to parents lie within the moderate to mid-high range (3.5 - Mediation; 4.2 - Mediation Before Due Process Hearing; 4.4 - Due Process Hearing) those parents in the Due Process Hearing Group report the highest emotional costs for their

Table 15.

ONEWAY Analysis of Variance PEMOCOST/CRMTHD

Group	n	X	sd	
*Mediation	35	3.5	1.5	
Med. Before DPH	28	4.2	1.4	
*DPH	18	4.4	1.0	(.9785)
Total	81	4.0	1.4	

f prob = .0487 significant at .05 (Duncan = Groups 1-3 significantly different at .05)

participation in a conflict resolution procedure. The consistency of their ratings is indicated by the small standard deviation (.9785, rounded off to 1.0).

Family Emotional Cost/Conflict Resolution Procedure

This dependent variable, Family Emotional Cost (FEMOCOST) was based on a survey item that required respondents to rate the emotional cost to their entire family of participating in the conflict resolution procedure. The same definition holds here for the independent variable Conflict Resolution Procedure (CRMTHD).

Results of the ONEWAY Procedure indicate that there is a

significant difference in ratings of family emotional cost based on conflict resolution procedure utilized F (2,80) = 3.8660, p = < .05. The Duncan Test additionally specified these significant differences to be between Group One (Mediation) and Group Three (Due Process Hearing). These results are demonstrated in Table 16.

Table 16.

ONEWAY Analysis of Variance FEMOCOST/CRMTHD

Group	n	X	sd
*Mediation	35	3.2	1.3
Med. Before DPH	28	3.9	1.5
*DPH	18	4.2	1.2
Total	81	3.7	1.4

f prob = .0251 significant at .05 (Duncan = Groups 1-3 significantly different at .05).

These data also indicate, as did those related to parent emotional costs, that all ratings of emotional cost to the family lie within the moderate to mid-high range (3.2 - Mediation; 3.9 Mediation Before Due Process Hearing; 4.2 - Due Process Hearing).

Income Levels/Conflict Resolution Procedure

The dependent variable, Income Level (INCOME) was based on a seven level rating scale (a) under $15,000, (b) $15,000-$30,000, (c) $31,000-$45,000, (d) $46,000-$60,000, (e) $61,000-$75,000, (f) $76,000-$90,000, and (g) over $90,000 on which parents were asked to indicate their income range. The Conflict Resolution Procedure (CRMTHD) independent variable has been explained previously.

Results of the ONEWAY Analysis of Variance indicate that their was no significant difference between income levels based on group membership F (2,81) = .1615, ns. Table 17 provides means and standard deviations for INCOME/ CRMTHD.

Table 17.

Means and Standard Deviations INCOME/CRMTHD

Group	n	X	sd
Mediation	35	3.2	1.7
Med. Before DPH	29	3.4	1.6
DPH	18	3.1	1.8
Total	82	3.2	1.7

f prob = .8512 not significant at .05 level

Reuse/Conflict Resolution Procedure

The Reuse dependent variable (REUSE) related to a survey item that asked respondents to indicate, on a Likert-Type Scale from one to five (one representing very low to five representing very high) the likelihood that they would utilize the same method of conflict resolution procedure if a problem again developed with the schools. The Conflict Resolution procedure variable (CRMTHD) has been previously described.

Results of this procedure indicated no significant difference between groups in relation to the issue of reuse F (2,79) = 1.2757, ns. Means and standard deviations for REUSE/CRMTHD are provided in Table 18.

Table 18.

Means and Standard Deviations REUSE/CRMTHD

Group	n	X	sd
Mediation	34	3.7	1.4
Med. Before DPH	28	4.3	1.1
DPH	18	3.8	1.4
Total	80	3.9	1.3

f prob = .2851 not significant at .05 level

Figure 11 provides frequency data of reuse based on total respondent ratings.

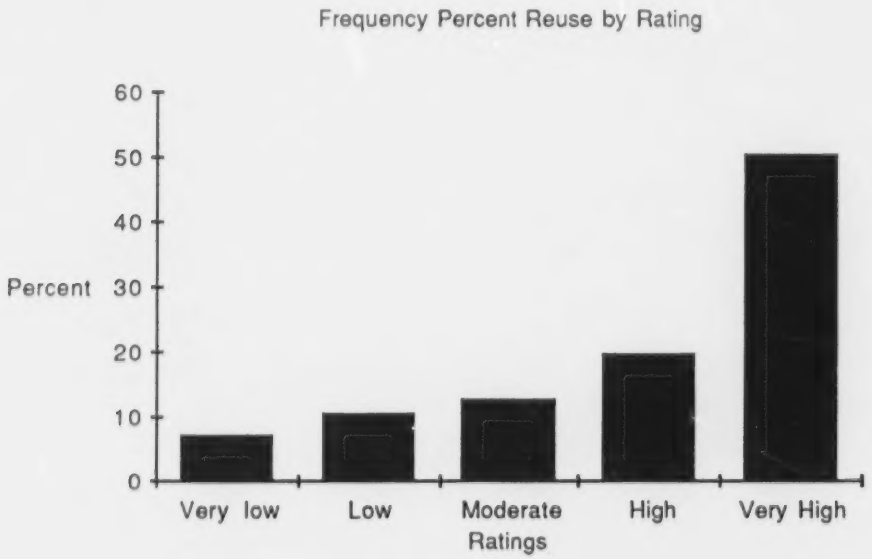

Figure 11. Overall Ratings of Probability of Reuse

SECTION II

Summary Information on Major Variables

Nature of Issue

Because of the design of the Parent Satisfaction Survey, two major variables, Identified Category of Disability and Nature of the Issue that led to the utilization of a conflict resolution procedure, were multiple response variables. For the Nature of the Issue survey item, parents were not instructed that they could check more than one response but in many cases they did. In the initial attempt to tabulate these data, a decision rule was established that up to three responses would be coded separately with more than three responses coded as a separate response category entitled, "more than three." The results of this decision rule and coding procedure are provided in Figure 12.

Category	n	% of Response	% of Cases
Identification	9	8	10.1
Evaluation	12	10.6	13.5
Placement	43	38.1	48.3
Appropriate Educ.	35	31.0	39.3
Related Services	7	6.2	7.9
More than three	6	5.3	6.7
Other	1	0.9	1.1
Total	113	100	127

Figure 12. Nature of Issue #1

This information indicates that the greatest number of conflicts arose because of placement issues (n = 43; percent of responses = 38.1; percent of cases = 48.3). These data, because of the multiple response format, had to be recoded if utilized in the multiple regression procedure. Because of this Identification and Evaluation were coded into one category; Appropriate Education and Related Services into another; and Placement individually into a third.

In light of the limited number of responses that could accurately be recoded (61 of 89 surveys), it was decided not to include this variable in the multiple regression procedure because of potential difficulties with homogeneity of variance. Therefore, only summary information (Figure 13) is available.

Conflict Area	n	Percentage
Identification/Evaluation	10	16
Appropriate Education/ Related Services	26	43
Placement	25	41
Totals	61	100

Figure 13. Nature of Issue #2

This information also indicates, in agreeement with Figure 12, that Placement Issues were the single largest issue to lead to a conflict with the schools.

Identification

The other major variable that had a multiple response format (this time by intent) was Identified Category of Disability. Parent respondents were requested to indicate their child's identified category(ies) of special education and advised that they could check more than one category. The results of this initial response format are displayed in Figure 14.

This information indicates that the greatest number of respondents reported that their child's major classification area was Learning Disabilities (n = 39; percent of responses = 30.2; percent of cases = 43.8). Because of its multiple response format, it was required this information also be recoded if used as an independent variable in the multiple regression procedure. Therefore, utilizing the estimated prevalence information provided by the United States Office of Education, Bureau of Education for the Handicapped (1975), the categories from Figure 14 were recoded into two groups:

Category	n	% of Response	% of Cases
VI	2	1.6	2.2
HI	7	5.4	7.9
SI	17	13.2	19.1
PI	4	3.1	4.5
MR	12	9.3	13.5
ED	23	17.8	25.8
LD	39	30.2	43.8
MH	14	10.9	15.7
No Categ.	3	2.3	3.4
Other	8	6.2	9.0
	129	100	144.9

Figure 14. Identification Categories #1

High Incidence Conditions (Speech Impaired, Mental Retardation, Learning Disabilities, Emotional Disturbances = 0); and Low Incidence Conditions (Physically Impaired, Visually Impaired, Hearing Impaired, Multiply Handicapped, Other = 1).

Again, as with the Nature of Issue variable, because of the limited number of responses that could accurately be recoded into one of these two groups (64 of 89 surveys), the decision was made not to include this information in the multiple regression procedure because of potential difficulties with homogeneity of variance. Therefore, only summary information (Figure 15) is available.

Identification	n	Percentage
High Incidence	51	80
Low Incidence	13	20
Totals	64	100

Figure 15. Identification Categories #2

The information presented in Figure 15 substantiates that reported in Figure 14. Eighty percent of the children were identified as having High Incidence disabilities (SI, MR, LD, ED).Twenty percent of the children were identified in this Figure as having Low Incidence Disabilities (PI, VI, HI, MH, Other).

One item in the Parent Satisfaction Survey requested parents to provide up to three reasons for satisfaction and/or dissatisfaction with the conflict resolution procedure utilized. Seventy one parents responded to this item. Total

positive responses were 106. Total negative responses were 133 for an overall total of 239 open-ended responses.

Eighteen categories of positive responses including "unclassifiable" and 23 categories of negative responses, again including "unclassifiable" were identified by the researcher in the effort to reflect responses at opposite ends of a continuum within specific categories. Both the researcher and the research assistant then individually placed parent responses in specific categories. Reliability of placement was high with an agreement rate of 97 percent for positive responses and 94 percent for negative responses.

Categories and frequencies are displayed in Figure 16 and information related to these responses and method of conflict resolution utilized is provided in Figure 17.

SECTION III

Outside Support Information

Because of the multi-staged sampling plan designed for this research,the decision was made to include information on the acquisition, use of, and satisfaction with outside support provided both in preparation for and during the conflict resolution procedure. Six items in the Parent Satisfaction Survey elicited information relative to the issue of outside support. Four of these items were designed as multiple response variables and the two satisfaction measures were five point Likert-Type Scale items ranging from one (very low satisfaction) to five (very high satisfaction).

Figure 18 provides information relative to the type of outside support utilized in preparation for the conflict resolution procedure. Because this was a multiple response variable both percent of responses and percent of cases information is reported. This information indicates that the majority of respondents utilized the support of either an advocacy organization (n = 52; percent of responses = 30.4;

percent of cases = 58.4) or legal representation (n = 50; percent of responses = 29.2; percent of caes = 56.2).

101	Free or low cost services	7	201	Expensive or high	9
102	Process was fast	4	202	Process too long/slow	11
103	Obtained desired placement	29	203	Did obtain desired placement	7
104	Obtained desired services	11	204	Did not obtain service	3
105	Improved understanding of laws, rights, procedures	6	205	Was not made aware of laws, rights, procedures	4
106	Satisfied with legal or judicial personnel	4	206	Dissatisfied with legal or judicial personnel	10
107	Satisfied with advocacy representatives	7	207	Dissatisfied with advocacy representatives	0
108	Satisfied with mediation representatives	5	208	Dissatisfied with mediation representatives	4
109	Satisfied with school personnel/administration	3	209	Dissatisfied with school personnel/administration	12
110	Obtained support	8	210	Emotionally stressful	9
111	Child is now improved	4	211	Child is worse, lost time in school, or seen as permanently scarred	6
112	Satisfied with outside evaluations	1	212	Dissatisfied with outside evaluations	4
113	"Truth" made known to authorities, proved point, "we won"	7	213	"We lost"	1
114	Procedures seen as fair	5	214	Procedures seen as unfair, inappropriate, incomplete	16
115	Was able to participate in planning child's educational future	1	215	Parents involved in process	1
116	Kept from further legal involvement	1	216	No intermediary system of conflict resolution	1
117	Will help others in future	1	217	No change; underlying problems still exist	10
125	Unclassified	2	218	Poor parent/school relationship	16
			219	Excessive jargon	2
			220	Mediation "weak"	2
			221	"Vague"	1
			222	Process/people intimidating	3
			223	Unclassifiable	0
Total		106			133

Figure 16. Open-Ended Response Categories and Frequencies

Conflict Resolution Procedure	Positive Responses	Negative Responses	Positive Percent	Negative Percent
Mediation	37	46	45%	55%
Med.Before DPH	38	41	48%	52%
DPH	21	27	44%	56%
Totals	106	114		

*19 negative comments were made by parents who had taken part in a method of conflict resolution other than the three under investigation.

Figure 17. Open-Ended Responses/Conflict Resolution Method

Type	n	Percent of Responses	Percent of Cases
Minister	1	0.6	1.1
None	7	4.1	7.9
Knowledgeable friend	26	15.2	29.2
Parent organization	10	5.8	11.2
Advocacy organization	52	30.4	58.4
Legal Representation	50	29.2	56.2
Family	2	1.2	2.2
Doctor	14	8.2	15.7
School personnel	7	4.1	7.9
Other	2	1.2	2.2
Totals	171	100	191.1

Figure 18. Type of Outside Support Utilized in Preparation

In relation to the type of outside support utilized during participation in the conflict resolution procedure, the results are similar as demonstrated in Figure 19.

Type	n	Percent of Responses	Percent of Cases
Minister	1	0.7	1.1
None	7	4.6	7.9
Knowledgeable friend	18	11.9	20.2
Parent organization	9	6.0	10.1
Advocacy organization	53	35.1	59.6
Legal representation	41	27.2	46.1
Family	2	1.3	2.2
Doctor	12	7.9	13.5
School personnel	7	4.6	7.9
Other	1	0.7	1.1
Totals	151	100	169.7

Figure 19. Type of Outside Support Utilized during Conflict Resolution.

From the information provided in Figure 20 it is evident that the most frequent sources of information relating to the availability of outside support were friends (n = 29, percent of responses = 26.9; percent of cases = 36.7); parent

Source	n	Percent of Responses	Percent of Cases
Minister	1	0.9	1.3
School	6	5.6	7.6
Friends	29	26.9	36.7
Parent Organization	21	19.4	26.6
Advocacy Organization	28	25.9	35.4
Family	3	2.8	3.8
Legal Services	2	1.9	2.5
Doctor	5	4.6	6.3
Self	12	11.1	15.2
Other	1	0.9	1.3
Total	108	100	136.7

Figure 20. Method of Locating Outside Support.

organizations (n = 21; percent of responses = 19.4; percent of cases = 26.6); and advocacy organizations (n = 28; percent of responses = 25.9; percent of cases = 35.4).

Respondents who did not utilize outside support indicate that the most frequent cause of this was their unawareness that support was available. The number of responses to this item was extremely small (n = 29) compared to the previous three items. Figure 21 illustrates this.

Reason	n	Percent of Responses	Percent of Cases
Felt Unnecessary	7	24.1	24.1
Unaware of Availability	19	65.5	65.5
Financially Unable	3	10.3	10.3
Totals	29	100	100

Figure 21. Reasons for not Utilizing Outside Support.

Relative to satifaction with support utilized in preparation for and during the conflict resolution procedure, respondents indicate a high level of satisfaction in both cases. Mean satisfaction with support in preparation was 3.9 (on a scale of one to five) with a standard deviation of 1.2. Mean satisfaction with support during the conflict resolution procedure was 4.0 (on a scale of one to five) with a standard deviation of 1.2.

SECTION IV

Summary of Results

1. Multiple Regression procedures demonstrated that:

A. Conflict Resolution Procedure was the independent variable that accounted for the greatest amount of variance and had the strongest relationship with Satisfaction with Process. Interpersonal Relationship also had a significant relationship with Satisfaction with Process.

B. Interpersonal Relationship was the independent variable that had the strongest relationship with Satisfaction with Outcome. Conflict Resolution Procedure also had a significant relationship with Satisfaction with Outcome.

2. Based on Analysis of Variance procedures:

A. There is no significant difference in satisfaction with the process utilized based on group membership.

B. There is no significant difference in satisfaction with the outcome of the process based on group membership.

C. There is no significant difference in interpersonal relationships based on group membership.

D. Multivariate procedures indicate that there is a significant main effect for Type and for Time and a significant Type by Time interaction for Conflict Resolution Procedure utilized and Interpersonal Relationships

E. There is a no significant difference in ratings of financial cost based on group membership.

F. There is a significant difference in ratings of emotional cost to parents between the mediation and due process groups.

G. There is a significant difference in ratings of emotional cost to families between the mediation and due process groups.

H. There is no significant difference in income levels based on group membership.

I. There is no significant difference in reuse of conflict resolution procedure based on group membership.

3. Placement is the largest single issue leading to the development of a conflict between the parents and the schools.

4. The largest number of conflicts involved children with High Incidence disabilities such as Speech Impairments, Learning Disabilities, Mental Retardation, and Emotional Disturbance.

5. In relation to positive and negative responses offered by parents, while there was a larger number of negative responses overall, in relation to group membership, the percentages of positive and negative responses were not observably significantly different.

6. The largest percentage of children involved were males.

7. The largest percentage of children were age 11 and below.

8. The largest percentage of children were being served in public day school settings both before and after the conflict resolution procedure.

9. The greatest single percentage of children were being educated in self-contained classrooms both before and after the conflict resolution procedure.

10. In the majority of cases, a change in identification, evaluation, education, or provision of related services was reported.

11. Educational level information on mothers and fathers indicate that the largest single percentage of both had at least some college or technical school training.

12. Occupational level information on mothers and fathers indicate the largest percentage of both were employed at the Professional/Technical/Managerial Self-Employed level.

13. The most frequent types of outside support provided both in preparation for and during the conflict resolution procedure were provided through advocacy organizations or legal representation.

14. The most typical method of acquiring information related to the availability of outside support was through parent and advocacy organizations and friends.

15. The majority of parents who did not utilize some type of outside support did so because they were unaware of its availability.

16. Where outside support was utilized in either preparation for and/or during the conflict resolution procedure, satisfaction with this support was high.

These results and their attendant implications will be discussed in detail in Chapter 5.

CHAPTER V

DISCUSSION AND POLICY ANALYSIS

Although the literature has indicated certain benefits of participation in the due process hearing (Budoff & Orenstein, 1982; Strickland, 1982), it has also indicated critical negative effects associated with the provision of the hearing as the sole method of conflict resolution in special education. These major negative effects include:

1. the removal of decision making power from the individuals involved in the controversy;

2. the development of an increasingly adversarial relationship between parents and the schools, and the damaging effect this poor relationship may have on both the child with a disability and future parent-school interactions;

3. the high costs, both financial and emotional, of participating in the due process hearing;

4. the inaccessibility of the due process hearing to many parents.

Because of these purported problems, the suggestion to investigate the use of the mediation procedure as a possible effective alternative has been forwarded (Budoff & Orenstein, 1981, 1982; Fiedler, 1985; Folberg & Taylor, 1984; Gallant, 1982; Nissen, 1984; OSERS, 1984; Strickland, 1982; Turnbull & Barber, 1984; Turnbull & Strickland, 1981; Yoshida, 1982).

While the use of mediation as an alternative form of conflict resolution has grown significantly within the past decade, little empirical evidence has been made available as to its effectiveness as an alternative to the sole use of the due process hearing.

In an effort to provide essential empirical data related to the effectiveness of the mediation alternative, the present study utilized The Parent Satisfaction Survey to investigate parent satisfaction with both the processes and the outcome(s) of the processes of the due process hearing and the mediation procedure.

Subjects were parents of children (pre-school through secondary level, identified and classified as in need of special education) who did not agree with the school district's recommendations concerning their child and who participated in a conflict resolution procedure(s) in the attempt to resolve parent-school conflicts related to identification, evaluation, placement, or appropriate education issues. Eighty nine parents responded to the mailed Parent Satisfaction Survey. Of these 89, 35 had taken part in a mediation procedure only, 29 in a mediation procedure before a due process hearing, 18 in a due process hearing only, and seven in a variety of conflict resolution procedures not under specific study in this research.

This chapter consists of six major sections:

1. Discussion of the hypotheses tested
2. Discussion of summary information and demographics
3. Study limitations
4. Recommendations for future research
5. Policy analysis and recommendations
6. Conclusions.

Discussion of the Hypotheses Tested

This research study was designed to investigate the effectiveness of mediation as an alternative to the due process hearing. In order to carry out this research, parent satisfaction with both the process(es) utilized and the outcome(s) of the process(es) were measured. This satisfaction was measured in relation to specific major variables which were determined from the review of the literature.

The two major hypotheses were:

1. There is no significant relationship between satisfaction with the process used and each of the independent variables either alone or as a composite.

2. There is no significant relationship between satisfaction with the outcome of the process used and each of the independent variables either alone or as a composite.

The results of the multiple regression procedures carried out to test these hypotheses indicated that of all the independent variables entered into the procedures (Method of Conflict Resolution-ADCR; Interpersonal Relationships-INTPER; Age of the Child-AGE; Severity of Handicapping Condition-SEV2; Income Level of Parents-INCOME) only Interpersonal Relationships (INTPER) and Method of Conflict Resolution (ADCR) demonstrated significant relationships with satisfaction with the process and satisfaction with the outcome of the process.

Interpersonal Relationships(INTPER) accounted for the greatest amount of variance and demonstrated the stongest relationship with Satisfaction with Outcome. Interpersonal Relationships also accounted for a significant amount of the

variance in the Multiple Regression procedure dealing with Outcome Satisfaction. These results serve to illustrate that the relationship that has developed between parents and school personnel is a critical factor in determining how satisfied parents are with the conflict resolution procedure they utilized.

A ONEWAY Analysis of Variance procedure was carried out to test the secondary hypothesis related to Interpersonal Relationships.

3. There is no significant difference in ratings of interpersonal relationships based on group membership.

While the results of this procedure indicate this this hypothesis can be accepted, observation of the means (while demonstrating no significant difference) do indicate that there is a somewhat higher rating of interpersonal relationships for parents who took part only in a mediation procedure. However, the overall mean response level of the three groups (3.5 on a satisfaction scale of one to five) indicates that all parents rated their overall interpersonal relationships with school personnel in the average to good range.

If ratings of interpersonal relationship are compared, based on the different groups of school personnel with whom parents interact, parents indicate average levels of satisfaction in their relationships with both teachers and related services personnel both before the conflict resolution procedure and after its completion. While there was a decrease in these ratings during the tenure of the procedure, in both cases, ratings returned to a level as high, if not higher, than before the conflict resolution procedure. However, parent ratings of interpersonal relationships with

the school administration were poor to average before the procedure, decreasing to poor during the procedure, and remaining in the poor range after the procedure was completed.

A Multivariate Analysis of Variance investigating Interpersonal Relationships by Method of Conflict Resolution by Type (teacher, school administration, and related services personnel) and by Time (before, during and after participation in the conflict resolution procedure) indicates a significant main effect for both Type and Time and a significant Type by Time interaction. These results indicate that ratings of interpersonal relationship are affected by with whom the parent is interacting and when the interaction is measured

The literature has indicated that prior interpersonal relationships are an important issue in the parents' decision to pursue some type of due process conflict resolution procedure. Poor parent school relations over an extended period of time are likely to result in a lack of trust, confidence, and cooperation between the parties and to increase the likelihood of conflict (Fiedler, 1985). This can be a critical point when one considers the fact that parents and the schools are forced into long-term relationships because of the nature and requirements of the special education system (Singer & Nace,1985).

The results of this research appear to indicate that parent perceptions of interpersonal relationships play a critical role in both satisfaction with the conflict resolution process utilized and with the ultimate outcome of the process. However, they also appear to indicate that a major and continual point of weakness in these parent-school relationships is at the parent-school administration level. This weakness is understandable in light of the fact that

the school administration is seen as the main decision making body by the parents of a child with a disability, with school administrators being reported as subjective in deciding whom they bring to a hearing (Gallant, 1982). Also, school personnel at the administrative level are most often required to deal with the fiscal and technical aspects of providing an appropriate education for the child, as well as with the political ramifications of the results.

The literature suggests that most parents and school personnel who take part in adversarial procedures do not reconcile their relationships (Alper & Nichols, 1984; Budoff & Orenstein, 1982; Strickland, 1982; Weisenstein & Pelz, 1987). A positive aspect of the results of this present research may be to indicate that, at least in the case of direct service personnel, parent-school relationships are often reconciled after the completion of conflict resolution procedures.

The results of the Multiple Regression procedures also indicated that Method of Conflict Resolution played an important role in both Satisfaction with Process and Satisfaction with Outcome. This independent variable accounted for the greatest amount of variance and had the strongest relationship with Satisfaction with Process and also demonstrated a significant relationship with Satisfaction with Outcome.

Two ONEWAY Analyses of Variance were conducted to further investigate procedure and outcome satisfaction based on Method of Conflict Resolution.

4. There is no significant difference in satisfaction with process based on group membership

5. There is no significant difference in satisfaction with outcome of the process based on group membership.

Although, Method of Conflict Resolution had demonstrated a strong relationship with process and outcome satisfaction in the Multiple Regression procedures, in the case of both of these ONEWAY results the null hypothesis could be accepted because no significant difference could be shown between the three groups investigated. Observation of group means, while demonstrating no significant difference, indicate a slightly lower rating of satisfaction with both process and outcome by those parent who used only a mediation procedure.

These findings are interesting because parents who took part in only the mediation procedure indicated higher (yet non-significant) mean ratings of Interpersonal Relationships. Gallant (1982) has suggested that mediation is not therapy or treatment although it can be seen as theraputic.

It appears necessary to consider the overall effectiveness of mediation in light of the fact that it is a suggested, not mandated, procedure that may be lacking not only guidelines, regulation, and enforcement power, but also the status and institutional acceptance of the due process hearing.

Other issues of concern in this investigation were those of financial and emotional costs incurred through participation in one of the methods of conflict resolution under study. Three additional hypotheses established and tested were:

6. There is no significant difference in financial cost based on group membership.

7. There is no significant difference in emotional cost to parents based on group membership.

8. There is no significant difference in emotional cost to families based on group membership.

Results of ONEWAY procedures indicate that, in the first case (financial cost), the null hypothesis was accepted. No significant differences at the .05 level were demonstrated in mean ratings of financial cost based on group membership. However, the f prob. was .07, suggesting an approach to significance. Observations of the means indicate that parents in the mediation group rated financial costs (2.5, low to moderate, on a scale of one to five) slightly lower than the parents in the mediation before due process group (2.9) and much lower than parents in the due process hearing group (3.5).

These findings must be considered in relation to the legalism that has become associated with participation in the mediation procedure (Yoshida, 1979; Singer & Nace, 1985) and in view of the passage of the Handicapped Children's Protection Act, P.L.99-372.

In the case of both parent emotional cost and family emotional cost, the results of the ONEWAY procedure indicated that the null hypotheses could not be accepted. There were significant differences in group mean ratings of emotional costs to both parents and families. In each instance, the significant difference was demonstrated between the mediation only group and the due process hearing only group.

These results are interesting because they are the first to demonstrate empirically that, in an area of particular concern, mediation was a possible improvement over the sole use of the due process hearing.

Parents in the mediation group rated Parent Emotional Costs 3.5 (moderate to high on a scale of one to five) while parents in the due process hearing group rated these costs at 4.4 (high, on a scale of one to five). Family Emotional Costs were rated 3.2 (moderate) by the mediation group and 4.2 (high) by the due process hearing group.

The literature review has identified the high emotional costs associated with participation in the due process hearing as a major problem area that may affect its accessibility for a wide range of parents. If the results of this study can be reaffirmed through additional research demonstrating that emotional costs attendant to participation in the mediation procedure are truly lower, this may have a major affect on the accessibility of due process procedures for parents and may be a major reason for promoting the institutionalization of the mediation alternative. However, in light of the purported positive characteristics of the mediation procedure, the results discussed above appear none too promising

Much has been written concerning not only the financial costs incurred through participation in the due process hearing (Budoff, Orenstein & Sachitana, 1987; NASDSE, 1978; OSERS, 1985; Yoshida, 1979), but also the financial status of those parents who have, to this point, utilized this procedure (Budoff & Orenstein, 1981; Budoff, Orenstein & Abramson, 1981; Fiedler, 1985; Lay, 1977; NASDSE, 1978; Neal & Kirp, 1985; Nissen, 1984; Strickland, 1982). Because of these facts, this research established and tested the hypothesis:

9. There is no significant difference in income levels based on group membership.

ONEWAY Analysis of Variance results indicated that there was no significant difference between the income levels of the three groups studied in relation to the conflict resolution procedure utilized. Frequencey data indicate that 61 percent of the parent respondents reported income in the ranges of less than $15,000.00 to $45,000.00 with 50 percent between $15,000.00 and $45,000.00.

These results support the previous research that middle-to upper-income families were most likely to make use of the due process hearing; they also demonstrate that the same group of parents is also most likely to utilize the mediation option. This information must be considered in relation to the sample population that was investigated in this research and in relation to the legal expenses that have, unfortunately, become attached to the mediation procedure.

It was assumed that another indication of parental satisfaction with the procedure utilized to resolve the conflict would be reuse. Would the parents be likely to reuse the same procedure if another conflict developed with the schools? A hypothesis was developed and tested:

10. There is no significant difference in reuse of conflict resolution procedure based on group membership.

Frequency data indicate that the majority of the overall group of respondents rate the likelihood of reuse as Very High (50.6 percent). Analysis of variance data indicate that there is no significant difference in ratings of reuse between the three groups studied. Observation of means demonstrate that, while there was no statistically significant difference in means, the mediation before due process group rated the likelihood of reuse more highly than the

mediation only group or the due process hearing group. However, because of the wording in the item in the Parent Satisfaction Survey related to this area, no breakdown of the method they would reuse is available. It does appear, though, that if they were unable to reach an agreement at mediation and then went on to the due process hearing these ratings of reuse would most likely refer to the due process hearing.

Discussion of Summary Information and Demographics

Additional investigations studied the issues of severity of handicapping condition and identified category of disability. Results of a Crosstabulation procedure indicated that there were no observable significant differences between method of conflict resolution utilized and parent ratings of the severity of their child's disability (51.9 percent rated their child's disability as mild/moderate; 48.1 percent rated their child's disability as severe).

Frequency data indicate that the greatest number of parent respondents reported that their child's major classification area was Learning Disabilities with the next largest number reporting their child's classification area as Emotional Disturbance. When the classifications of disability condition were recoded into High and Low Incidence disabilities, 80 percent of the parents placed their child in the High Incidence category and 20 percent in the low incidence category. These results agree with previous research data that report that parents of students with Learning Disabilities and Emotional Disturbance are most likely to utilize due process procedures (Kammerlohr, Henderson & Rock, 1983; Budoff & Orenstein, 1982).

While the results of this reseach appear to verify that which has previously been reported, it is essential to consider these findings in view of the representativeness of the sample, the sampling plan, and the method of distribution. It appears logical that parents of these children would tend to continue to seek due process relief in greater numbers since their children are in the High Incidence category.

In respect to the nature of the issue that led to the development of a conflict with the schools and to the ultimate use of a conflict resolution procedure, the results of this research agree with those reported previously that the major issue cited for the rejection of the IEP and the filing of an appeal is placement (Brady, 1984; Budoff & Orenstein, 1982; Strickland, 1982; Turnbull, 1986). While the assumption was made in the present research that, as a broader range of programs was required for a wider spectrum of students, present major conflict issues may differ, this assumption could not be supported by the findings.

The area of outside support utilized was of major interest to the reseacher in this study. If mediation was designed to be a consensual method of conflict resolution where the decision making was left with the parties to the conflict, then it appeared that there should be a decrease in outside support utilized. While the frequency data reported on outside support issues are not broken down by conflict resolution procedure, it appears obvious (in sight of the fact that the largest number of respondents took part in a mediation procedure) that some type of outside support was utilized by the majority of respondents with the greatest number using either an advocacy organization or legal representation as outside support and assistance both

during preparation for and participation in the conflict resolution method.

These results agree with the findings of Yoshida (1979) and Singer and Nace (1985) and appear to be appropriate in light of the legalization that is characteristic of the due process hearing and has become increasingly characteristic of the mediation procedure. The sources of outside support reported in these results may be somewhat skewed in light of the sampling and distribution methods utilized in this research.

When parents were asked to indicate the most likely source of information relating to the availability of outside support services, the most frequent sources indicated by parents were friends and parent and advocacy organizations. These results most likely reflect not only the fact that parents often seek support from one another, but also the sampling and distribution plan utilized in this study. An interesting fact in these results is that only six parents (5.6 of the responses, 7.6 of the cases in this multiple response item) indicated that they had received information concerning outside support available from the schools. This appears contrary to the directive of the EHA that parents should be informed as to their rights relative to participation in the due process hearing (i.e.the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children; Sec. 1415 (d) (1)). The EHA additionally requires that the local education agency inform parents of any low-cost or free legal services in the geographical area (Sec.300.506). Accordingly, of the 29 parents who did indicate that they utilized no outside support, 19 (65.5 percent of responses, 65.5 percent of the

cases) reported that this occured because they were unaware of the availability of outside support.

The final issue investigated in relation to the utilization of outside support was parent satisfaction with the support offered during preparation for and participation in the conflict resolution procedure. A high level of satisfaction was indicated in both cases. Again, this result must be considered in view of the sampling and distribution methods of this research.

Parents were afforded the opportunity to provide three major reasons for satisfaction and/or dissatisfaction with the conflict resolution procedure in which they took part. These reasons were categorized and frequency data were provided for each category. These data indicate that the major reason (n=29) for satisfaction with a procedure was that the desired placement was obtained. They also indicate that the two major reasons for dissatisfaction were that procedures were seen as unfair, incomplete, or inappropriate (n=16), and that there was a poor parent-school relationship (n=16). By conflict resolution procedure utilized, there was no observable difference in the number and percentage of positive and negative responses. Each group of parents under investigation reported more negative than positive responses.

These results support the negative characteristics of the due process hearing reported in the literature, as well as the difficulties associated with the mediation procedure reported through the results of this research.

Child characteristics provided by this research (1) the largest percentage of children involved were male, and (2) the largest percentage of children were being served in public day school settings both before and after the conflict resolution procedure appear to be in agreement with

previous research findings. However, the finding that the greatest single percentage of children were being served in self-contained classrooms both before and after the conflict resolution procedure appears questionable in view of the facts that the majority of students were identified as having High Incidence Disabilities (Speech Impairments, Learning Disabilities, Emotional Disturbance, Mental Retardation). These results may have been affected by sampling and distribution, individual and local placement policies, and data-recording procedures that counted non-public day school placements as self-contained classrooms.

Parent educational and occupational level results (i.e., the largest single percentage of mothers and fathers reported at least some college or technical school training; the largest percentage of mothers and fathers reported employment at the Professional/Technical/Managerial/Self Employed level) appear to support previous research findings that middle to upper class families are most apt to make use of due process procedures. However, it is also necessary to look at these results in relation to the sampling and distribution procedures used in this research.

Study Limitations

Several major factors limit both the conclusions which may be drawn from this research, as well as the generalizibility of the results. The first problem area is the issue of sample representativeness. A sample cannot be considered representative of a population unless all members of that population have a known chance of being included in the research. Therefore, without a representative list, it is virtually impossible to gain access to what is a completely representative sample of the population, as well

as to assure that certain segments of the population are neither over-nor under-represented (Dillman, 1978). In the case of this research, no lists were available (because of record-keeping practices and confidentiality rules), and the study is limited by the erratic response of states, state education agencies, and selected advocacy agencies within each state.

Because of this lack of representative lists, the second problem area also developed. This was related to the issue of distribution. Of the 89 individuals who responded to the survey, 26 were identified as responding through state protection and advocacy agencies; 23 through state ARC chapters; two through state ACLD chapters; and 38 through a state department of education. Unfortunately, because of the coordinated distribution plan used in Connecticut, it is impossible to determine if these numbers are accurate for any group except the protection and advocacy agencies. An additional concern with this method of distribution is that those parents who are either unaware of and/or inactive in advocacy organizations had no opportunity for response unless they were in Connecticut and the distribution method there provides no clear answer to this problem.

The third area of concern is the low response rate and the effect this has on the generalizibility of results. This problem is also due to the lack of availability of a representative list. Without such a list, it is impossible to conduct follow-ups to the initial survey mailing. Kanuk and Berenson (1975) and Scott (1961) report that follow-ups or reminders are universally successful in increasing response rates, with each successive follow-up resulting in added returns. Because of the lack of a representative list in this research, direct accessibility to respondents was impossible and, therefore, the use of follow-up mailings to

increase the initial response rate of 29 percent was impossible.

Being aware of the inability to utilize follow-up measures to increase response rate, an attempt was made to increase them through the use of an incentive. Knox (1951) reports that a special device for stimulating response is the offering of a premium or reward. In general, Kanuk and Berenson (1975) report that money appears to be the most effective and least biasing incentive, the easiest to obtain and mail, and the most useful to all recipients. While this research received funding through the Student Initiated Research Program of the United States Office of Special Education and Rehabilitative Services, funds were still limited, thus prohibiting the offering of an money incentive. In the attempt, however, to provide some type of premium to respondents, the researcher contacted McDonalds, Burger King and Wendys in an effort to acquire token food/drink coupons (Appendix K). These organizations were chosen because:

1. the researcher had previously acquired cost-free coupons from similar businesses;
2. they were nation-wide in scope; and
3. the provision of an food/drink coupon appeared to be a useful incentive for parents with children.

Unfortunately, these organizations were unable to provide the coupons either because of company policy or regional differences in offers. The researcher then contacted Hallmark Cards in the attempt to acquire either wallet calendars or date books. Hallmark agreed to provide the requested items; however, the delivery date would have postponed survey distribution for approximately one to two months.

It also appears, from comments provided by parent respondents contacted through the New Jersey ACLD, that in several cases, for some unforeseen reasons (most probably the addition of materials to the survey packets), the packets arrived postage due. This also had potential to seriously affect the return rate.

Another issue of concern is that of reliability of responses. Because of the lack of a representative list, the limited number of available respondents, and the assurance of confidentiality, the researcher was unable to undertake relaibility checks. This may be an especially important factor when one considers the influence of variations in memory recall, interpersonal relationships with school personnel, and overall satisfaction with the process(es) participated in, as well as the outcome of that process(es).

Additionally, the president of a local chapter of the New Jersey ACLD indicated (by personal communication) that in one meeting she had ten parents who had taken part in some type of conflict resolution procedure and who agreed to complete the survey. However, after they heard the evening's main speaker, a representative of the Due Process Division of the State Department of Education, they were so angry that they refused to participate. It is difficult to quantitatively measure this anger, but from this comment and the many other comments and letters received from parents who did participate in the survey it appears anger levels are high and may not only affect the decision to participate but also the ratings of satisfaction provided.

Finally, additional limitations are self-imposed by the fact that researchers limited the study of procedure affectiveness to a measure of parent satisfaction. The educational quality of the procedure outcome(s) was not

measured nor was the degree to which the outcome(s) complied with the law.

Recommendations for Future Research

The final aspect of the policy analysis section of this chapter will deal with recommendations for future action based on the results of the policy analysis. The present section will deal only with suggested future research that might serve to answer more specifically the questions related to the effectiveness of mediation as an alternative to the due process hearing, as well as provide additional empirical data in an area seriously lacking such information.

Six suggested areas for future research are:

1. Investigate and contrast the appropriateness and enforcibility of mediated settlements and due process hearing decisions in relation to:

   a) educational quality of the agreement/decision
   b) legality of the agreement/decision
   c) long-term potential of the agreement/decision

   in the face of the facts that mediation is not mandated, agreements are not built on precedents but decided in view of the specific situation, and do not carry the force of law.

2. Investigate and compare the effectiveness of the different types of mediation structures in place in relation to:

   a) administrative support for the system
   b) mediator qualifications,and training, supervision, and evaluation programs
   c) user rates based on age of system

d) the criteria of success for a mediated settlement

e) success rates at mediation versus failure and proceeding to a due process hearing

f) the utlization of outside support.

3. Investigate the user rates of mediation over the next several years based on the issues of:

a) the utilization of outside support

b) parent satisfaction with process/outcomes

c) the effect of the Handicapped Childrens Protection Act.

4. Investigate and compare the effects of the mediation procedure and the due process hearing based on:

a) parent-child relationships;

b) teacher-child relationships;

5. Replicate the present study utilizing:

a) teacher satisfaction;

b) related-services personnel satisfaction

c) administrative satisfaction as a measure of the effectiveness of the mediation procedure and the due process hearing.

6. Investigate the direction taken by state and local educational and advocacy and parent agencies in relation to the suggestion that the problem does not lie principally with either the due process hearing or the mediation procedure but with the poor quality of interpersonal and professional relationships between parents and school personnel:

a) is there a change in emphasis from providing legal assistance to school personnel involved in conflicts to preservice and inservice training in conflict resolution, problem solving, and negotiation skills?

b) is there a change in emphasis from after-the-fact legal and advocacy assistance to parent training in conflict resolution, problem solving and negotiation skills?

Policy Analysis and Implications

Policy Analysis Defined/Background Information

At the most general level, policy analysis has been defined as the application of reason, evidence, and a valuative framework to public decisions (MacRae & Haskins), or the use of reason and evidence to choose the best policy among a number of alternatives (MacRae & Wilde, 1979). The functions, values, and usefulness of the policy analysis process are such that, on one hand, it can help decide which of current policies should be maintained, modified, expanded, decreased, or deleted; and, on the other hand, whether or not entirely new programs are called for.

Because of these disparate roles, there are several major models recognized within in the policy analysis field.

Mediation, which is a goal-directed, problem solving intervention designed for both conflict resolution and minimization, places great emphasis on the principles of self-determinization and self-empowerment (Folberg & Taylor, 1984; Murray, 1984). This emphasis on autonomy and self-control make it apparent that if one utilized Moroney's value based technique of policy analysis that the value

underlying mediation would be liberty. Accordingly, an analysis based on this technique would necessarily contrast liberty with equality (equal treatment) and fraternity (community).

This research, however, chose a more global view and based the following policy analysis on the general issue of due process procedural safeguards.

The due process procedural safeguards that are mandated through the authority of the EHA, and their included conflict resolution procedure,the due process hearing, are all parts of a policy that is now in place because of federal legislation (Education for All Handicapped Children Act, 20. U.S.C. 1400 et seq., 34 C.F.R. Part 300). The suggestion of mediation as a possible alternative to the sole use of the due process hearing has been made not only in the special education literature but also in a comment to the regulations which guide the implementation of the EHA (Comment following 34 C.F. R. Sec. 300.506). Additionally, a 1983 study by NASDSE examined the use of mediation in 38 states and reported various types of support for and degrees of institutionalization of mediation in those states.

Because of these facts, this research is related to a policy that is already in effect. Therefore, the method of policy analysis utilized in this section will be based primarily on Gallagher's (1981) model of policy implementation. This model focuses on the assessment of already established policies in the process of being implemented. This model has seven major steps:

1. Problem statement
2. Current policy description
3. Value base for policy
4. Application of policy
5. Program objectives obtained

6. Identifiable barriers to implementation
7. Recommendations for action

This type of analysis is designed to help decision makers determine how effectively a policy is presently being implemented (Gallagher, 1981).

The issue under study here is the effectiveness of specific due process procedural safeguards. Based on the literature review, it appears that the mandated procedure, the due process hearing, has been remiss at accomplishing many of its original goals. However, based on the results of this research, it also appears that the mediation procedure is remiss at accomplishing some of these same objectives in (as postulated in the literature) a more effective manner. What then is the major problem? Is it, as Gallagher (1981) suggests, that when a policy is proven to be ineffective, it is not so much because of an inappropriate choice of a policy alternative, but rather because of ineffective implementation?

Statement of the Problem

The due process procedural safeguards were included in the EHA to guarantee that the educational rights mandated to students through this legislation were more than an empty promise. The intent was to "assure that the rights of handicapped children and their parents are protected" (Sec.1400 (c)). Ideally, these due process procedural safeguards (i.e., prior notice, access to records, opportunity for an independent evaluation, right to remain in current placment, a due process hearing, and surrogate parents) were designed to provide parents and school personnel with the opportunity to develop collegial, shar- ing, and mutually supportive relationships on behalf of the child with a disability (Budoff & Orenstein, 1982; Turnbull, 1986). However, too often these procedures have been remiss

at accomplishing these purposes and have seved to foster the deterioration of parent school relations (Budoff, 1979; Fiedler, 1985; Mitchell, 1976; Yoshida, 1982). There have been critical negative effects cited as related to the sole use of the due process hearing model.

These problems, from the perspective of due process as a conciliatory device as cited in Chapter Two and in the introduction to this chapter, are related to: the site of decision making power and adversarial relationships and their effects on all involved; financial and emotional costs; and overall accessibility. Because of these identified problems, alternative methods of conflict resolution have been suggested, with the major emphasis placed on the mediation procedure (Ekstrand & Edmister, 1983; Fiedler, 1985; Nissen, 1984; OSERS, 1984; Turnbull & Barber, 1984). An analysis of the implementation of the mediation "option" in special education conflict resolution must therefore consider the ability of mediation to:

1. maintain the decision making power with the parties involved in the conflict, allowing them to reach a mutual solution to a mutual problem;

2. foster the development of communication and problem solving skills necessary to maintain a positive working relationship supported by the mutual goal of appropriate education for the child;

3. afford the opportunity to exercise due process rights for reasonable financial and emotional costs;

4. provide accessibility to all parents of children with disabilities.

Policy Description

Chapter Two, the Review of the Literature, contains specific sections related to the utilization and effectiveness of mediation as an alternative method of

conflict resolution in a variety of areas including special education. However, this section will summarize this information in the attempt to:

1. explain the history of the policy
2. detail the sources of support for the policy;
3. illustrate specific goals and objectives of the policy;
4. describe purported major beneficiaries; and
5. explain the means of policy execution.

The establishment of alternative dispute processing programs has been described as a growth industry in the United States, with applications of consensual methodologies currently involved with labor and international relations, family issues, religion, environmental issues, consumer complaints, and criminal activity (Murray, 1984). Consensual methods of conflict resolution (i.e., fact-finding, negotiation, mediation, and conciliation) are an attempt by individuals to develop non-adversarial alternatives to adjudicatory processes.

It appears, from this information, that the suggestion of a consensual method of conflict resolution for special education disputes would be an appropriate outgrowth of this national movement, for the due process hearing is an adjudicatory process rather than an consensual process. The due process procedures embodied in the EHA were designed with the intent of harmonizing relationships between parents and the school (Budoff & Orenstein, 1982; Turnbull, 1986) and embodying the principal of participatory democracy (Turnbull, 1986) with the goal of providing an appropriate education to the child. According to the literature, however, these procedures--and particularly the due process hearing--failed in this intent. Therefore, the suggestion of a mediation alternative followed.

This mediation alternative was suggested not only in the literature but also in a comment to the regulations that accompany the EHA. The mediation procedure was purported to have the potential to succeed where the due process hearing was failing by maintaining the decision making power with the parties involved in the conflict, increasing communication and problem solving skills, lowering financial and emotional costs, and providing greater accessibility to due process rights.

In order to attain these goals the mediation procedure was instituted as an "option" to the due process hearing. It was required that it retain this optional role, neither impeding, delaying, nor denying due process rights (Comment following 34 C.F.R. Sec. 500.506; Education for the Handicapped Law Report, 1987; Singer & Nace, 1985).

The results of this research demonstrate that while the mediation procedure does involve lower emotional costs, and may, because of this, affect accessibility, it does not involve significantly lower finacial costs. Nor does the mediation procedure appear to significantly improve the interpersonal relationships of those involved in the process or to produce more satisfactory outcomes. The research of Budoff, Orenstein and Sachitana (1987) demonstrates that mediation procedures are, for the most part, not generalized from state to state. Finally, litigation in both Connecticut (West Hartford Board of Education) and Massachusetts (Massachusetts Department of Education) demonstrates that even these pioneer states in the area of mediation were using the procedure in a manner not in agreement with the law.

It appears that policy implementation of the mediation procedure has been uneven and characterized by problems of how satisfaction with process and outcome, interpersonal

relationships, generalized use, expense, and legality.

Value Base for Policy

In implementation analysis, an attempt is made to determine the specific values/criteria that appear to have played an important role in the decision to adopt the current policy. It appears, from studying the policy that provided the basic due process procedural safeguards included in the EHA, that the values that support all of these due process procedures are: equality, participatory democracy, the redressing of power relationships, accountability, and efficiency. It also appears from reviewing the research available that additional values/criteria must be considered when evaluating the effectiveness of the implementation of the mediation alternative. These additional criteria, in light of the mandated due process procedural safeguards are: institutional acceptance, political and technical feasibility, and cost v. benefit.

The basic due process procedural safeguards mandated through the EHA were included in the attempt to assure that the educational rights provided through this law were, in fact, made available to children with disabilities and their families. Prior to the EHA, policies of total and functional exclusion were in effect in relation to the education of the child with a disability. Decision making was controlled by the schools, and parents' roles in educational decisions were minor, if not non-existent. With the EHA, however, this situation was supposed to change. Children with disabilities were provided with equality of educational opportunity and their parents were to be included in the educational planning process. Schools were to be made accountable for the type, amount, and quality of educational programs offered. Finally, all parties were provided with specific due process protections to protect these rights.

Institutional Acceptance: In relation to the implementation of the mediation alternative, the first additional value/ analysis criterion that must be considered is institutional acceptance. In utilizing this criterion, it is necessary to examine the fit of the new policy with existing functions. Ideally, it is suggested in the legal literature, the establishment of an alternative method of conflict resolution:

> should not obscure the interrelationship that must exist with other systems for settling disputes in society...but should be part of a comprehensive and phased system of settlement...should not replace systems already established but serve as... a complementary system...not pose a threat to the positive elements of the traditional system (Murray, 1984, p.)

In special education, mediation is suggested only as an option (Comment following C.F.R. Sec. 300.506) and, according to Singer and Nace (1985), the United States Department of Education, while providing no substantive guidelines for mediation, is concerned that it neither impede nor delay the exercise of due process rights.

In reality, one must question the institutional fit of mediation especially in light of Budoff, Orenstein, and Sachitana's (1987) research that appears to demonstrate a lack of generalization from state to state, as well as wide variations in administrative support, the use of mediation, and in the selection, training, and utilization of mediators. One must also question the institutional fit in view of the previously cited litigation in Connecticut and Massachusetts that resulted from unclear information

provided to parents as to the actual "optional" status of mediation.

Therefore,in relation to the criterion of institutional acceptance, it appears that, while an attempt was made to introduce the mediation procedure as an alternative to the due process hearing and a supportive part of the overall system of due process procedures, in reality, institutional acceptance is a problem area to the effective implementation of this policy.

Political Feasibility: The second additional analysis criterion is political feasibility. In relation to this issue, it is necessary to investigate the probability that this policy will be supported politically, an essential requirement for the success of any policy. The historical support for the inclusion of due process procedural safeguards can be found in both the Constitution and in legislation and litigation that proceeded from constitutional protections available to all citizens.

Therefore, when these due process procedures were included in the EHA, they were based on legislative and legal precedent, and their continued evolution has been involved with precedents established in such cases as Mills v. Board of Education of the District of Columbia (1972) and Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania (1972).

It would appear that if it could be demonstrated that mediation is truly an option that is not used to impede, delay, or deny due process rights, as well as a procedure that engenders enforceable present agreements and future plans in the best interest of the child, then it could be politically feasible to expect it to be supported. However, when some attorneys who are involved in special education litigation regularly bypass the mediation option because of

fear of a weak decision (OSERS, 1986), and when parents who participate in a mediated agreement demonstrate no greater satisfaction with either the process or the outcome of the process, the present political feasibility of this option must be questioned.

Technical feasibility. Another issue that goes hand in hand with political feasibility is that of technical feasibility. This can be the "make or break" criterion. Are the personnel and procedures available to make the implementation of this policy a success? Is there a state-of-the-art model, and, if so, is the model replicable?

This appears to be an area of extreme weakness in relation to the mediation alternative. The literature indicates that there is a lack of a generalized model of mediation from state to state (Budoff, Orenstein & Sachitana, 1987). Research indicates that states vary as to administrative support for mediation; the mediation procedure itself; the location of mediation (i.e., one, two, three tiered systems); the background and skill requirements of mediators; the employment status of mediators; and the training, supervision, and evaluation of mediators.

In relation to the issue of replication of a state-of-the-art model, it is apparent from the literature that there are several models that have been utilized and "replicated' throughout the states (i.e., the Gallant model, the Neighborhood Justice Center of Altanta Model, etc.). However, no data are available as to the success of the replication program nor the fit of a particular program within the state bureaucracy.

Cost/benefit Ratio: The last criterion is cost/benefit ratio. Is policy implementation worth the cost? Will the policy make a net contribution to society and, ultimately, is it worth undertaking (Fiedler, 1985)? In the case of the

mediation alternative, both financial and emotional cost/benefits must be compared in light of the fact that two of the major problems identified as associated with participation in the due process hearing were the high emotional and financial costs involved and the implications this fact could have on procedure accessibility.

Results of this research indicate that parents who took part in a mediation procedure do not report significantly lower financial costs. However, these parents do report lower emotional costs to themselves and to their families. While this information is encouraging, it must be considered in light of the fact that both parent and family emotional costs are rated above the moderate level, as well as in relation to the representativeness of the individuals who made up the sample for this research.

An additional cost-benefit issue concerns the expenses incurred by state or local educational agencies in adopting the mediation alternative. The costs of employing, training, supervising, and evaluating mediators are additional to those incurred through the personnel expenses of due process hearings. However, if mediation is a much less time consuming process; the costs to the school districts or state for legal representation during mediation procedures are lower than those during a due process hearing, and the costs to school districts are lower in relation to lost classroom personnel time, then the implementation of the mediation procedure can be called cost effective. However, data on all these questions are limited.

It is interesting to note that the majority of individuals (in this present research) who took part in either method of conflict resolution utilized some type of outside support during preparation and/or participation. Yoshida (1979) and Singer and Nace (1985) report these same

types of results. In the face of this information, one is required to consider the overall cost/benefit ratio of a program that is designed to be less adversarial and less legalistic yet requires the use of legal representation in a majority of cases.

One final issue that must be discussed in relation to the cost/benefit issue is the effect the Handicapped Childrens Protection Act (P.L.99-372) will have on the use rates of the mediation option. If parents are able to recover legal expenses incurred if they prevail at a due process hearing, why would they use another method of conflict resolution (e.g. mediation) without this provision?

Program Objectives Achieved

In the case of the mediation alternative, it appears that current research results indicate that mediation does afford the opportunity to exercise due process rights with lower emotional costs and, in doing so, may provide accessibility to a wider range of parents of children with disabilites. However, mediation does not afford the opportunity to exercise due process rights for significantly lower financial costs.

If one compares respondent ratings of interpersonal relationships, mediation does not foster the development of communication and problem solving skills necessary to maintain a positive working relationship at a level any higher than that of the due process hearing.

It is unclear, from the present data, if mediation serves to maintain the decision making power with the parties in conflict allowing them to reach a mutual solution to a mutual problem.

However, the research does indicate that there is no significant difference in satisfaction with either the

processes of the due process hearing and mediation or with the outcomes of either of the processes.

Barriers to Implementation: These barriers have been explained in detail in previous sections of this policy analysis, for that reason, they will be only briefly summarized here.

Institutional: Institutional acceptance and fit must be questioned in the face of research that demonstrates a lack of generalization in mediation procedures from state to state (Budoff, Orenstein, & Sachitana, 1987) and litigation in Connecticut and Massachusettes that questions the actual "optionality" of mediation in these state's due process systems (Education for the Handicapped Law Report, 1987).

Psychological: Individuals who have participated in the mediation alternative, while indicating lower emotional costs to themselves and their families, also indicate no higher levels of satisfaction with this alternative procedure nor any greater satisfaction with the outcomes of this procedure. Additionally, research results indicate there is no significant difference in ratings of interpersonal relationships for the groups under study.

Economic: Individuals who participate in mediation do not report significantly lower financial costs than those individuals who took part in a due process hearing. Additionally, there is no research data available as to the actual added costs of establishing and jointly maintaining a mediation option in the due process system. Finally, one must consider the implications of the Handicapped Childrens Protection Act.

Political: Basic due process procedural safeguards were established based on a history of litigation and legisla- tion. There is, however, no information available as to the strength of a system that is suggested, not

mandated, and in which mediated agreements are neither based on precedents nor have the power of law. Finally, mediation procedures are supported in different manners in different states providing no generalized picture of "mediation in special education".

Recommendations for Action

The final step of an implementation analysis requires that the policy analyst provide specific recommendations for action. According to Gallagher (1981), there are three major options for recommendations.

1. A hands-off approach would be the selected outcome if the analyst concluded that the policy is being implemented as well as can be expected at the present time.

2. If changes are seen as necessary,a recommendation of substantial changes in the existing format would be made in the effort to make the policy more effective.

3. If the policy is seen as completely ineffective, a recommendation would be made to replace the current policy with a specific alternative.

In the case of the present policy under consideration,the second option will be selected and specific recommendations will be made in two basic areas. These areas, through both the review of the literature and the results of this present research, have been shown to be areas of critical need in relation to the effective implementation of the basic due process procedural safeguards mandated through the EHA.

The following recommendations also reflect the conflict resolution and conciliation roles of the due process procedures in general, as well as the conflict conciliation and minimization that are the intent of mediation as one specific method of conflict resolution.

The first recommendation is that:

> Efforts must be made to develop and assure collegial relationships between parents of children with disabilities and the schools. Ideally,these relationships were to be based on the principle of participatory democracy and were envisioned as a foundation of the due process procedural safeguards.

The Development and Maintenance of Collegial Relationships

Since the enactment of the EHA, parents and professionals have been encouraged to work together in serving children with disabilities. The basic intent of the due process procedural safeguards provided through the EHA was to actively involve both parties in all aspects of the decision making process related to the identification, evaluation, placement and appropriate education of the child. There has been, however, a common misconception that these due process provisions primarily refer to the right to challenge decisions related to the education of the child only after they have been made and only in the context of a formalized hearing.

One result of the present research was to demonstrate that the relationship that has developed between parents and school personnel is an important factor in determining how satisfied parents are with the conflict resolution procedure in which they participated. Taking this one step further, it would appear to follow that if a positive collegial relationship between parents and school personnel could be developed and maintained, satisfaction with educational planning could be increased, conflict could be minimized,

and the need to resort to formal methods of conflict resolution could be diminished.

When this research was first proposed, it was postulated that it had the potential for making contributions to six separate constituancies: the child, the parent and family, school personnel, local education agencies, state education agencies, and attorneys and representatives of advocacy agencies. The recommendations for action that follow will be related to each of these constituancies.

1. Preservice Preparation for School Administration

The present research demonstrates that the parent-school administration relationship is the weakest link in the area of interpersonal relationships. If this fact is true, it appears that preservice training in the areas of communication, group dymanics, negotiation, and consulting should be prerequisites for individuals who are planning on a career in educational administation or supervision. These types of skills appear to be of major importance to those individuals entering the field of special education because they will most likely have the responsibility to interact professionally with parents of children with disabilities. However, their importance should not be any less for those individuals who are in the area of regular education for it is often the district superintendent who must make the final decision on programs to be offered to children both with and without disabilities, as well as the provision of related services. It is also often the school principal who is responsible for individual decisions relative to placement in the least restrictive environment for children with disabilities within an individual school.

Factors that must be considered in this issue are (1) the perceived unfeeling or "all business" manner of some

school personnel who, according to Gallant (1982), are seen to relate only to budgetary concerns and narrow legalistic interpretations of the law, and (2) the language of the education profession that may often be both disconcerting and threatening to parents of a child with a disability.

2. Preservice Preparation for Teachers and Related Services Personnel

If preservice training is a prerequisite for school administrators, it is necessarily a prerequisite for those in the education profession who will provide direct services to the child with a disability, be they regular classroom teachers, special education teachers, or related services personnel. These are the individuals who are on the front line in the delivery of an appropriate education. The special education professional is required to have on-going contact with the parents in the planning and implementation of the child's educational program. Ideally, this educational program should be based on mutual respect and the contributions of both parents and the involved school personnel. For this reason, individuals who are planning a career in special education should be trained in communication, negotiation, problem solving, and consulting skills with an emphasis on understanding that parents of children with disabilities are, like parents of children without disabilities, essentially diverse (Turnbull & Turnbull, 1985).

These individuals must also be instructed in the legal aspects of special education as they relate to all issues in the provision of an appropriate education. They must be made aware of the concept of advocacy and the role it may or may not play in their relationships not only with parents, but also with the school administration and the local district.

Because so many children with mild to moderate disabilities are educated, for at least part of the day in the regular classroom, teacher preservice programs for the regular classroom teacher must include not only a basic class in special education but also emphasize communication skills and the collegial role of the parent in planning for the education of the child with a disability.

3. Local Education Agency/State Education Agency Inservice Training

In order to assure that both school administrators and educational personnel are kept current in the area of special education, it is essential that state and local education agencies offer timely inservice programs. These programs should be designed with the intent of (1) instructing individuals in essential skills that they do not presently possess or (2) refreshing skills that are in an individual's repertoire but may need to be polished through additional information and opportunities for practice. This type of inservice program should stress not only current issues in special education (i.e., related services,etc.) but also basic communication, negotiation, problem solving, and consulting skills and their role in the professional life of the educational professional (administrator, special educator, and regular educator). Additionally, these inservice programs should be designed and scheduled with the responsibilities and time constraints of the school personnel in mind in order to assure cooperative participation.

4. Local Education Agency/State Education Agency Parent Training

One of the requirements of the EHA is that parents be informed of their responsibilities and rights under the law. It would appear appropriate, in the face of information from the review of the literature and the results of this

research, that local and state education agencies go beyond the simple declaration of rights printed in handbooks or on the back of IEPs. The decision to go one step further and instruct parents in the effective and appropriate use of these rights from the child's initial evaluation onward would be to the benefit of all involved parties. Parents, made aware of the fact that the LEA and SEA were providing training to their own personnel in the areas of communication, negotiation, and problem solving, would be apt to demonstrate interest in a parent training program in these same areas if they were assured that the overall goal of the LEA and the SEA was the provision of the most appropriate education possible for their child.

It would be incumbant that the educational agencies plan and schedule these training sessions with the assistance of parents who are active in the schools as well as respected by other parents of children with disabilities. This type of mutual planning could assure that parents are aware that the programs are for their benefit and the benefit of their child, and are devoted to issues directly related to the success of their child in the educational system.

An additional asset of a parent training program provided through the schools would be that parents who are not aware of or involved with advocacy agencies would have a greater opportunity for accessibility to this type of training

5. Advocacy Agency Parent Training

If local and state education agencies are cognizant of the importance of parent training programs, it would only appear appropriate that advocacy agencies, which are often the strongest voice of parents of children with disabilities, would have this same awareness. These agencies,

because of their major goal of assuring the rights of individuals with disabilites and their families, are well versed in the requirements of the EHA, as well as other legislation and regulations that apply to the education of a child with a disability. The development of an effective parent training program designed to assure that the parent is an effective participant in the child's educational program from the initial evaluation onward is a natural outgrowth of this goal. Advocacy and legal agencies are now often involved with the parents and the schools when the relationship has broken down and a method of conflict resolution is being utilized. A more effective approach, and one that appears to hold more potential for the emotional health of both the child and the parent, is a program designed to teach the parents communication, negotiation, and problem solving skills in tandem with instruction related to their rights and responsibilities under the EHA.

Impact

These preservice, inservice, and parent training programs initially, and most appropriately,have the potential to directly impact the child with a disability. If parent-school relationships can be kept on a collegial level, there is apt to be less protective posturing on the part of both the school and the parents and more emphasis on the provision of an appropriate education for the child. Additionally, a lengthy period of conflict may be avoided, as well as attendant negative side effects that have been identified in the literature.

Direct benefits may also be felt by parents who find that they can feel comfortable and trusting in their relationships with the school and thus can avoid the lack of

trust, confidence, and cooperation that has often existed in parent-school relationships and led to the development of adversarial relationships and the utilization of formal methods of conflict resolution. Emotional costs to both parents and families, which have been reported as especially high in relation to participation in the due process hearing, and high financial costs incurred through participation in a lengthy methods of conflict resolution can be avoided.

School administrators will benefit because there is the potential of less stressful and and more constructive relationships with parents of children with disabilities without the possibility of a due process hearing hanging over the school environment like a mysterious and ever present threat (Weisenstein & Pelz, 1986). Additionally, staff dissention and lowered morale that can develop when there is a parent school conflict may also be avoided.

The local education agency may be positively impacted in that high financial costs incurred by the participation in due process hearings or mediation procedures can be reduced; this is also true of the excess personnel costs relative to time lost from the classroom. The willingness of the school district to work cooperatively with parents may help to foster its reputation, especially in an era of consumer dissatisfaction with education and limited funding. The opinions of parents of non-disabled students may be changed in relation to the provision of special education if they see that educational monies are going to provide educational services and not legal services.

The state education agency may be impacted in that the costs associated with state level hearings and appeals, as well their associated personnel costs, may be avoided. Additionally, the efforts spent in determining "guilt" in

relation to the number of disputes that arise in particular school districts may be more constructively spent.

Advocacy and legal agencies may be impacted because it may be possible to turn their efforts to teaching skills aimed at conflict minimization and/or prevention to parents instead of reacting to individual conflicts with the schools. Therefore, they can achieve their goal of assuring the rights of individuals with disabilities and their families in a more positive manner. Additionally, limited financial and personnel resources can be spent in improving present programs, as well as providing new programs and services to a wider spectrum of individuals.

The second recommendation is that:

> If the mediation procedure is to be utilized effectively as a method of conflict resolution in special education, in the event that a parent school dispute cannot be resolved through an on-going collegial relationship efforts should be made to assure that the mediation procedure is true to the model and intent of effective consensual methods of conflict resolution.

Establish a Mediation "Model" in Special Education

Mediation has been defined in the legal literature as a goa-directed, problem-solving intervention intended to resolve differences and reduce conficts, as well as provide a forum for decision making, both now and in the future (Folberg & Taylor, 1984; Murray, 1984). It is designed to be a consensual, not an adjudicatory, process of conflict resolution.

Murray (1984) suggests that consensual dispute processing has progressed to the point where it no longer needs to be labeled with alternative status but permitted

instead to mature as a separate and full-fledged institution. Several of the characteristics that he associates with an institution are:

1. It is a cultural fact with broad existence, well established, society-wide in effect, having a stable influence on individuals' lives;

2. It has an instructional quality that serves to educate individuals in an acceptable method or approach.

If we consider mediation in special education with respect to embodying these characteristics, we can envision some of the problems that it faces at this point in time in regard to its institutionalization as an alternative to the sole use of the due process hearing.

Mediation is being utilized in special education in many states; however, support for and the structure of the mediation process varies from state to state. A 1983 study by NASDSE examined the use of mediation in 38 states and found support for the procedure in 87 percent of these states, with 11 states providing support through rules and regulations and 22 by administrative decision. However, where mediation was supported administratively, the nature of the support differed considerably, with some states using SEA staff to conduct mediations, others training local staff, and others only including mediation as a suggested alternative in state plans or due process handbooks.

In this same vein, while much has been written about the skills that mediators in special education should possess (Ekstrand & Edmister, 1984; Gallant, 1982; Turnbull & Strickland, 1981), it is interesting to note the variety of individuals who serve as mediators in various states, and the circumstances under which they serve, for example:

1. Massachusetts has six full-time mediators with the Bureau of Special Education Appeals. Each is assigned to

one of the six regional office of the Department of Education. Occupations range from former priest to prison official and none are attorneys (Center for Law and Education, 1985; Gallant, 1984).

2. Mediators in Connecticut are hired on a per-diem basis by the State Board of Education for Mediation. The majority of the 12 are former social workers and psychologists (Center for Law & Education, 1985; Gallant,1984).

3. California currently has eight part-time mediators appointed through the State Department of Education. They include a retired principal, a retired special education director, a former teacher, several attorneys, a counselor, and the parent of a child with a disability (Singer & Nace, 1985).

4. In Florida, mediation is coordinated through the Bureau of Education for Exceptional Children. Individuals suggested for consideration as mediators are superintendents, special education directors, grievance coordinators, local education agency attorneys, etc.(State of Florida, 1982).

Additionally, Budoff, Orenstein, and Sachitana (1987) report that training and supervision patterns in the states vary from formal training programs with regular mediator meetings and regular performance evaluations, to pre-mediation training with no subsequent training or supervision, to "more casual" forms of training and supervision.

According to Nissen (1984) and Yoshida (1982), the most obvious outcomes of mediation to be studied are: whether the mediated solution is appropriate for the student, and whether mediation reduces the financial and emotional costs to parents and school personnel. The results of the present research indicate that parents who participate in the

mediation process demonstate no higher levels of satisfaction with either the process itself or the outcomes of the process. They also show no significantly higher ratings of interpersonal relationships with school personnel, nor do they rate financial costs associated with participation in the mediation process as significantly lower than those who participated in the due process hearing.

Murray (1984) asserts that accountibility is a necessary requirement of all alternative consensual methods of conflict resolutions for it is necessary to demonstrate that a proposed alternative does what it purports to do in a manner as effective, if not more so, than the procedure for which it is offered as an alternative.

As stated previously, when this research was first proposed it was postulated that it had the potential for making contributions to six separate constituencies. As with the previous recommendations for action, those that follow will be related to each of these constituencies.

1. Define and Standardize the Mediation Model

The field of special education, if it is to effectively utilize and benefit from the positive qualities of mediation, must establish specific protocal related to the implementation of this procedure. It may well be that a step needs to be taken beyond only the "suggestion" of mediation as an alternative in the regulations that accompany the implementation of the EHA (Comments following 34 C.F.R. Sec. 300.506). Additionally, it may be time for the Department of Education to end its "hands off policy" with respect to mediation (Singer & Nace, 1985) and to establish guidelines in view of the problems that have been associated with the mediation procedure and that are hindering its effective implementation.

Mediation in special education must be defined. Those that both sponsor and participate in this procedure must be aware of what it is and what it is not, as well as what it can and cannot do. In respect to this, potential outcomes of the mediation procedure need to be identified and defined, and outcome criteria and a measurement and recording system need to be developed.

Additionally, a state-level reporting system should be developed and implemented with records maintained as to: the degree and level of support for mediation in the state; the structure of the mediation procedure; the number of mediation procedures convened; the outcomes of these procedures (in relation to both specific child-oriented outcomes, and the achievement of an agreement or the move to another level of conflict resolution); and the criteria used to evaluate these outcomes.

Finally, a method of review of the state systems should be implemented at the national level, with the regulatory power to maintain a measure of quality control over state level systems. The overall mission of this type of review system should be to analyze this state-by-state information with a view to:

1. establishing mediation as a "mandated alternative" with the same powers as the due process hearing because it has been proven to be a more effective means of conflict resolution based on specific criteria, or

2. disbanding the attempt at establishing mediation as an alternative method of conflict resolution in special education because it has been proven to be relatively ineffective in providing due process rights to individuals in a manner any more efficient than the due process hearing.

2. Define and Standardize Mediator Selection Qualifications, Training, Supervision, and Evaluation

There is much concern in the legal profession about the education and training of individuals who will be involved in mediation. Folberg and Taylor (1984) report that (a) some believe mediation is a new profession demanding an approved graduate curriculum and academic prerequisites for entry, (b) others think it is a practiced competency or set of skills to be added through continuing education to an existing professional base, and (3) others, still, see it not as a professional practice but offered by lay personnel who have ties to the subject or the setting of the dispute.

If this much thought and discussion is given to this issue, one can seen the important role that selection and training can play in not only the ultimate effectiveness of the procedure, but also its ultimate acceptance.

In looking at these characterizations, it appears that special education has chosen the third view of what a mediator need be. As stated previously, much has been written about the qualifications required of a successful mediator in special education; however, the available information from the field appears to indicate that the qualification for selection, the training and supervision, and the evaluation programs for special education mediators are generally arbitrary.

Impartiality, knowledge of conflict, group and family dynamics, comunication skills, special education theory, and special education law are essential competencies of an special education mediator. Besides knowledge, however, the individual must have formal training in mediation and must possess not only an overview of the process but also the ability to understand and effectively work through the stages of the procedure.

In tandem with these skill and training requirements, if a state is going to establish a mediation program, it should demonstate that it has the following in place:

1. A definition of the role of the mediator;
2. An established job description based on the knowledge, skills, and abilities required;
3. An established training program with outcome criteria;
4. Standardized monitoring and evaluation system;
5. An active inservice program.

Additionally, there should be an attempt made to professionalize the mediator's role in the context that there are professional and ethical standards established. Presently, there is available a Code of Professional Conduct for Mediators developed in 1982 by the Center for Dispute Resolution in Denver. This code discusses the mediator's responsibility to the parties in the conflict, toward the mediation process, toward other mediators, toward his/her agency and profession, and toward the public and other unrepresented parties. There are also a number of professional associations for mediators that have as their goals the establishment of educational and experience criteria, the development and implementation of training workshops, research into alternative methods of conflict resolution, and the dissemination of information.

While these suggestions may appear to do nothing more than add levels of bureaucracy to a process that is designed to be a less formal method of conflict resolution, the alternative status of the mediation process appears to demand that it be accountable and demonstrate that it is an effective alternative to the sole use of the due process hearing. In order to demonstrate the accountability of a

program, goals and objectives must be defined, implementation must be well planned, and outcome criteria must be established.

The establishment of a mediation "model" in special education, as well as the establishment of professional requirements for mediators, can only serve to benefit those involved with the process.

Impact

The child will be impacted because the outcome of a well defined mediation program with qualified and trained mediators will be agreements designed with the child's benefit in mind. Definition and training will help to standardize a process that, because it represents an "alternative" to the adversarial system, lacks the precise and perfected checks and balances that are the principal benefits of the adversary system (Folberg & Taylor, 1984). If the procedure is established with specific goals and objectives in mind and if qualified and well trained individuals are involved in implementation, the power imbalances that may accompany this type of procedure can be kept in check. The agreements reached through a professionally conducted mediation process are apt to reflect the desires of both of the parties in view of the needs of the child.

Parents and families will be impacted and benefitted because they will know, before hand, exactly what mediation is and is not and what it realistically can and cannot accomplish. They will be given the opportunity to be guided through a process that, in the hands of a well trained mediator, can and should be a positive and useful learning experience. Additionally, a well conducted mediation process should be less costly on both the emotional and the financial level.

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The local education agency will benefit for many of the same reasons. School personnel will be aware of what mediation is and is not, as well as given the opportunity to learn to face conflict, problem solve, and communicate effectively--skills that are a benefit both personally and professionally. The shortened time frame of mediation should make it less costly in terms of personnel costs, as well as emotional costs. And, if this procedure is effective, long-term legal costs should be diminished.

The state education agency will benefit because an established, structured system will be in place that can demonstrate its effectiveness and accountability in both a quantitative and qualitative manner. Additionally, if the system is effectively implemented the expenses of costly appeals can be avoided.

Advocacy agencies will benefit because their (often limited) personnel and financial resources can be directed at establishing new creative programs for individuals with disabilities and their families and at expanding those programs that may have been neglected because so much time and effort has gone into "reacting" to individual conflict situations. If a well defined and structured system is in place, it would be more likely that parents could participate in mediation without the need for outside support.

Finally, while attorneys may not benefit quite as much financially because their services will no longer be in such demand, it would appear that some attorneys involved in special education disputes would be pleased that children were being better served and parents were able to more effectively access and exercise their due process rights.

Conclusions

Results of the present research suggest that the mediation alternative is, at the present time, not living up to its potential as an effective method of conflict resolution in special education. While the demonstration of lowered emotional costs to both parents and family members appears to be a positive characteristic of the mediation procedure, the fact that parents, who took part in this process, indicate no higher levels of satisfaction with either the process itself or the outcome of the process, show no significantly higher ratings of interpersonnel relationships with school personnel, and report no signficantly lowered financial costs, appears to put the majority of the weight on the negative side.

From a policy analysis point of view, it appears that the establishment of a mediation alternative is an acceptable addition to available due process procedural safeguards. However, mediation is an alternative that has suffered from ineffective implementation. Recommendations for action therefore are related to: the development and maintenance of collegial relationships between parents and and schools in the effort to miniminze the need for formal methods of conflict resolution; and the establishment of a mediation procedure in special education true to the model and intent of effective consensual methods of conflict resolution.

Mediation in special education, at this point in time, does not appear to be standardized sufficiently from state to state thus possibly limiting the generalizations able to be made from research such as the present study. However, one must keep in mind that there is also a wide national

diversity in other areas relative to special education such as the issues of classification, placement, educational programming, least restrictive alternative, due process, and parent participation.

This general lack of standardization has the potential to limit both the generalization power, as well as the policy implications that may be drawn from a wide range of research in the area of special education. However, these potential difficulties should not deter researchers in the area of special education from attempting to design and conduct research with the ultimate intent of eliminating some of the present roadblocks and defining an effective special education policy.

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APPENDICES

APPENDIX A

State Level Contact Letter

MEDIATION PROJECT
Department of Special Education
3150 Haworth Hall
University of Kansas, Lawrence, KS 66045
(913)864-4954;4364

Dear (insert last name):

The Special Education Department at the University of Kansas has applied for and received funding from the Student Initiated Research Grant program of the Department of Education to undertake research into the effectiveness of mediation as an alternative method of conflict resolution in special education. The Principal Investigator on this project is Professor H. Rutherford Turnbull, III, and the Student Investigator is Kathleen H. McGinley. The contact information for this project if you wish further information is: 377 Haworth Hall, Department of Special Education, University of Kansas, Lawrence, KS 66045 (913)864-4364; 4954.

Linda Lewis, of the National Association for State Directors of Special Education has been very supportive of our project and has suggested that you could be a crucial resource in our attempts to develop a sample population for this study. We are interested in reaching parents who have taken part in either the due process hearing or the mediation procedure.

The purpose of this introductory letter is to establish initial contact and to familiarize you with our research plans. To these purposes, we have enclosed a copy of the abstract, the purpose statement of our proposed project, and the preliminary survey plan which has been developed.

We will follow-up this letter with a telephone call within the next two weeks in order to discuss our project further, as well as any help which you may possibly be able to offer.

Thank you for your consideration.

Sincerely,

Kathleen H. McGinley
Student Investigator

H. R. Turnbull, III
Principal Investigator

Enc: Abstract
Project Purpose
Preliminary Survey Plan

APPENDIX B

Abstract/Project Purpose

EVALUATING THE EFFECTIVENESS OF MEDIATION AS AN ALTERNATIVE TO THE DUE PROCESS HEARING IN SPECIAL EDUCATION

(This project is funded through a grant from the United States Department of Education, Office of Special Education and Rehabilitation Services Grant No. G008630382)

The due process hearing historically has been the major avenue used by parents and school districts to resolve conflicts relating to the provision of an appropriate education for the child with a disability. This and other procedural safegaurds were designed to be a means of harmonizing the separate, but similar, interests of parents and educators (Kirp, 1976; Turnbull, 1986). Although some positive outcomes have been associated with participation in the due process hearing (Budoff & Orenstein, 1982; Strickland, 1982), critical negative effects have also been cited in the literature (Budoff, 1979; Budoff & Orenstein, 1981, 1982; Fiedler, 1985; Folberg & Taylor, 1984; Gallant, 1982; Salend & Zirkel, 1984; Strickland, 1982; Turnbull, 1986, Yoshida, 1982). Because of this, the suggestion has been forwarded to investigate the use of consensual methods of conflict resolution as an alternative to the sole reliance on the due process hearing. The use of a mediation procedure as a possible effective alternative has been recommended (Budoff & Orenstein, 1981, 1982; Fiedler, 1985; Folberg & Taylor, 194; Gallant, 1982; OSERS, 1984; Strickland, 1982; Turnbull & Barber, 1984; Yoshida, 1982). However, while the use of mediation alternative has grown significantly over the past decade, presently being supported in some manner in 38 states (NASDSE, 1984), little empirical evidence is available as to its effectiveness as an alternative to the due process hearing.

The purpose of the proposed project is to provide essential empirical data related to the effectiveness of mediation as an alternative method of conflice resolution. the research will investigate mediation's effectiveness as a method of conflict resolution and determing whether mediation aviods the crucial negative effects associated with participation in the due process hearing.

In an attempt to achieve its purpose the research will determine the relationship between parental satisfaction with the processes of the due process hearing and mediation, as well as parental satisfaction with the outcome(s) of these processes. The strength of the relationship will be measured with respect to specific variables determined from the review of the literature to be applicable to the issues of procedure effectiveness, satisfaction, and accessibility.

It is intended that the research:

1)build on preliminary efforts in this area;

2)investigate mediation in relation to its effectiveness as a procedure that:

a)maintains the decision making power with the parties involved in the conflict, allowing them to reach a mutual solution to a mutual problem

b) fosters the development of communication and problem-solving skills necessary to maintain a positive working relationship supported by the mutual goal of appropriate education for the child

c) affords the opportunity to exercise due process rights for reasonable financial and emotional costs.

d) provides accessibility to all parents of children with disabilities.

Additionally, the purpose of this project is to extend the generalizability of results of research in the area through both the provision and dissemination of empirical evidence. Both the research and the dissemination are intended to encourage, if appropriate, the institutionalization of mediation as an alternative to the due process hearing, as well as further research in this area.

In an attempt to achieve its purpose the research will investigate the relationship between parental satisfaction with the processes of the due process hearing and mediation, as well as parental satisfaction with the outcome(s) of these processes. The strength of the relationship will be measured with respect to specific variables determined from the review of the literature to be applicable to the issues of procedure effectiveness, satisfaction and accessibility.

APPENDIX C

Parent Letter

MEDIATION PROJECT
Department of Special Education
377 Haworth Hall
University of Kansas Lawrence, KS 66045
(913)864-4954, 4364

Dear Parents: January 8, 1987

On some occasions, parents and school personnel disagree as to the appropriateness of the educational program and services provided for a child with special education needs. Both educator and parent groups are interested in learning how conflicts between parents and the schools are resolved and how satisfied parents are with the procedure that they used to resolve the conflict. Because you arethe parents of a child receiving special education services and you have taken part in either the due process hearing or the mediation procedure, we are interested in your satisfaction with the procedure that you used. You are our experts and our major resource in this area.

A major purpose of this research is to assure that both you and your child have been and will continue to be given the opportunity for the most effective and satisfying method of resolving problems with the schools. Our over-riding concern is that the rights provided through P.L.94-142 are really effective and available to all to whom they apply.

We have enclosed with this letter a short survey that should not take more than 30 to 35 minutes to complete. We have included in the survey a Glossary of terms used so that there is no confusion as to meaning.

Your voluntary cooperation and help are greatly appreciated. If you have any questions about the purpose, the directions, the questions, or the results of the survey, please feel free to call or write.

It would be most helpful if you would return the completed survey by no later than February 28,1987.

We will send you a copy of the results if you indicate your desire for them on the final page of the survey. To assure your confidentiality, this final page will be detached when we receive the completed survey.

All information which is received will be kept confidential. The numbers which appear in the upper right hand corner of the first page of the survey are there for bookkeeping purposes only.

We will send you a copy of the results if you indicate your desire for them on the final page of the survey. To assure your confidentiality, this final page will be detached when we receive the completed survey.

Thank you again for your time and help.

Sincerely,

H. R. Turnbull, III

Kathleen H. McGinley

APPENDIX D

Parent Satisfaction Survey

PARENT SATISFACTION SURVEY
Research Edition

Developed by:
Kathleen McGinley
H. R. Turnbull, III
Nona Tollefson
The University of Kansas
Departments of Special Education and
Educational Psychology and Measurement

Specific due process safeguards are included in federal special education law in order to assure parents, children and local educational agencies that the child with a disability is receiving a free, appropriate, public education. These safeguards include the right to use some type of conflict resolution procedure if problems should arise between parents and schools that cannot be resolved by less formal means. This survey has been developed specifically to measure parent satisfaction with the outcomes and processes of two specific methods of conflict resolution, the due process hearing and the mediation procedure.

This survey was developed through a grant from the United States Department of Education, Office of Special Education and Rehabilitative Services Grant No. G008630382. The statements and material contained within do not necessarily reflect the position or policy of the Department of Education or Office of Special Education and Rehabilitative Services; and no official endorsement should be inferred.

THIS SURVEY HAS FIVE SECTIONS THAT ASK FOR INFORMATION ABOUT YOUR USE OF AND SATISFACTION WITH EITHER THE DUE PROCESS HEARING OR THE MEDIATION PROCEDURE. THE SPECIFIC PURPOSE OF EACH SECTION, AS WELL AS SPECIFIC DIRECTIONS ARE INCLUDED AT THE BEGINNING OF EACH OF THE FIVE SECTIONS.

ALSO, A GLOSSARY IS PROVIDED AT THE BEGINNING OF THE SURVEY THAT EXPLAINS MANY OF THE TERMS USED. THE TERMS IN THIS GLOSSARY HAVE BEEN PUT IN ORDER SO THAT THEY CORRESPOND TO THE ORDER THAT THEY ARE USED IN THE BODY OF THE SURVEY. THIS SECTION CAN BE PULLED OUT FOR EASY REFERENCE.

GLOSSARY

The terms in this Glossary have been put in order so that they correspond to the order that they are used in the body of the survey. Also, the terms used in the body of the survey have been printed in **boldface** the first time that they are used.

Please feel free to pull out this section for easy reference

Method of Conflict Resolution : The method used to solve the problem between the parents and the school, in this case either the due process hearing or the mediation procedure.

Mediation Procedure: A procedure designed to promote reconciliation, settlement, or compromise between two parties in conflict;in this case the parents and the school

Due Process Hearing: A hearing concerning a parent-school conflict conducted by an impartial due process hearing officer who makes a decision based on the evidence presented by both the parents and the school.

Identification Issues: Issues related to the labelling or classifying of a child as having one or more special education needs which may lead to the child being recommended for or receiving special education services.

Evaluation Issues: Issues related to the individualized testing or assessment of a child for special education purposes, usually to determine if the child needs or is receiving special education.

Placement Issues: Issues related to the school or class placement of a child recommended for or receiving special education services.

Appropriate Education: The provision of an education that is appropriate to a child's specific special education needs. Appropriate education typically involves personalized instruction with sufficient related services to permit the child to benefit educationally from the instruction, even if the child is not achieving to his/her maximum potential. Often, appropriate education means the provision of special education services as written in the IEP.

Related Services: Transportation and other developmental, corrective and supportive services necessary to assist a child to benefit from special education. These include: speech pathology, audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disability, counseling services, and medical services for diagnostic or evaluation purposes. These also include school health services, social work services in the schools, and parent counseling and/or training.

Mild: Independent or semi-independent functioning; having basic social and academic skills necessary to cope with daily living; assuming major responsibility for many of his/her own actions.

Moderate: Semi-dependent or dependent functioning; having limited social and academic skills necessary to cope with daily living; unable to assume major responsibility for many of his/her own actions.

Severe: Dependent functioning; having extremely limited social and academic skills necessary to cope with daily living; unable to assume responsibility for many of his/her own actions.

Grade Level: The grade in school in which a child is placed and/or the level at which a child would be placed according to his/her age.

Full-time Regular Class: The child spends 100 percent of his/her time in a regular (non-special education) classroom.

Consultative Services: Services that are provided on a one-to-one basis such as, speech, occupational, physical therapies, etc.

Part-time Regular Class: The child spends less than 100 percent of his/her time in a regular classroom and for the rest of the time receives some type of special education services in a different setting.

Learning Center/Resource Room: The child is placed not only in a regular classroom but also in a special education classroom for part of the day for remedial or supplemental instruction.

Self-contained Special Class: An educational setting where all services are provided to the child in a special education classroom with no services provided during any part of the day in regular classes.

Interpersonal Relationship: A relationship between individuals. For example, how people get along with each other.

Classroom Teacher: The teacher who has major and direct responsibility for providing services to a child.

School District Administration: The school district superintendent, director of special education, or building level principal, etc.

Result: The result of the due process hearing or the mediation procedure. For example, what happened in relation to the child's identification, evaluation, placement, or provision of an appropriate education or related services.

Satisfaction: The extent to which you were pleased with the process (either the due process hearing or the mediation procedure) and/or with the result of such a process.

Due Process Hearing Officer: The individual who conducts the due process hearing and makes the decision based on the evidence presented by both parties.

Mediator: The individual who works with the parties in conflict so they can reach an agreement acceptable to both the parents and the school.

Financial Costs: Dollar expenses directly related to preparing for or taking part in the dueprocess hearing or the mediation procedure.

Emotional Costs: Costs to the child, parent, and/or other family members because of the stress of taking part in the due process hearing of the mediation procedure.

Parent Organization: An organization of and for parents concerned with the effective functioning of the schools.

Advocacy Organization: An organization concerned with the civil,legal, and educational rights of people with handicapping conditions, and with the rights available to their families.

Legal Representation: Having an attorney represent one of the parties in the due process hearing or the mediation procedure.

Appeal: Taking the decision reached in the due process hearing to a higher authority such as a state education agency, a state or a federal court.

State Education Agency: The State Department of Education, State Department of Special Education, etc.

State Court: Courts where state-oriented legal issues are tried; can be trial, appeals, or state supreme courts.

Federal Court: The courts where federal-oriented legal issues are tried; can be district courts, circuit courts of appeals, or the U.S. Supreme Court.

Section One

Section One of this survey has two major purposes.

1. to gather necessary information about your child's disability, age, sex, special education identification, and school and class placement.
2. to identify the **method of conflict resolution** you used, either the **due process hearing** or the **mediation procedure**, and the specific problem that led to your choosing one of these procedures to try to solve your problems with the school.

In Section One you are asked to show your answers by placing a check √ in the space next to the response that best describes your opinion.

1. The method of conflict resolution used to resolve our conflict with the school was:
   __mediation procedure
   __mediation procedure before a due process hearing
   __due process hearing only

2. What was the major issue that led to the use of either the due process hearing or the mediation procedure?
   __an **identification issue**
   __an **evaluation issue**
   __a **placement issue**
   __an **appropriate education issue**
   __a **related services issue**
   __other (please explain)

3. What are your child's identified category(ies) of special education? (you may check more than one)

   __visually impaired
   __hearing impaired
   __speech impaired
   __physically impaired
   __mental retardation
   __emotional disturbance
   __learning disabilities
   __multiply handicapped
   __not categorized
   __other

4. How would you describe the severity of your child's handicapping condition ?
   __**mild**
   __**moderate**
   __**severe**

5. Your child's sex is :
   __Male
   __Female

6. What was your child's age at the time of the conflict with the school ? _____.

7. What was your child's **grade level** at the time of the conflict with the school ?
   __Pre-school
   __Primary (K-3)
   __Intermediate (4-6)
   __Junior High School (7-9)
   __Senior High School (10-12)

8. What was your child's **school placement** before you took part in the conflict resolution procedure ?
   ___Public Day School
   ___Private Day School
   ___Public Residential School
   ___Private Residential School

9. What was your child's school placement after you took part in the conflict resolution procedure ?
   __Public Day School
   __Private Day School
   __Public Residential School
   __Private Residential School

10. What was your child's **class placement** before you took part in the conflict resolution procedure ?
    __**Full-time Regular Classroom**
    __Full-time Regular Classroom with **Consultative Services** such as Speech, Physical, Occupational Therapy, etc.
    __**Part-time Regular Classroom** with Part-time **Learning Center or Resource Room** Support
    __**Self-Contained Full-time Special Classroom**
    __Other (please identify)_____

11. What was your child's class placement after you took part in the conflict resolution procedure ?

__Full-time Regular Classroom
__Full-time Regular Classroom with Consultative Services
__Part-time Regular Classroom with Part-time Learning Center or Resource Room Support
__Self-Contained Full-time Special Classroom
__Other (please identify)_____

Section Two

The major purpose of Section Two is to gather important information about the **interpersonal relationships** of parents, children, teachers, and school district personnel.In this section we are interested in these interpersonal relationships before, during, and after you chose to use either the due process hearing or the mediation procedure.

In this section, you are asked to rate each item on a scale ranging from one (very poor) to five (very good). Please read each question carefully and then indicate your chosen response by circling the number that best represents your opinion.

1	2	3	4	5
very poor	poor	average	good	very good

For Example:

The information provided at the parent-teacher meeting was:

1	2	3	4	5
very poor	poor	average	(4) good	very good

In the opinion of the person who answered this question the information provided was good, so 4 is circled.

12. How would you describe your child's relationship with his/her **classroom teacher** before you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

13. How would your describe your child's relationship with his/her classroom teacher during the time you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

14. How would you describe your child's relationship with his/her classroom teacher after you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

15. How would you describe your relationship with your child's classroom teacher before you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

16. How would you describe your relationship with your child's classroom teacher during the the time you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

17. How would you describe your relationship with your child's classroom teacher after you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

18. How would you describe <u>your</u> relationship with the **school district administration** <u>before</u> you took part in the conflict resolution procedure

1	2	3	4	5
very poor	poor	average	good	very good

19. How would you describe <u>your</u> relationship with the school district administration <u>during</u> the time you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

20. How would you describe <u>your</u> relationship with the school district administration <u>after</u> you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

21. How would you describe <u>your</u> relationship with the people who provide related services for your child (such as Physical Therapy, Occupational Therapy, Speech Therapy, etc.) <u>before</u> you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

22. How would you describe <u>your</u> relationship with the people who provide related services for your child <u>during</u> the time you took part in the the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

23. How would you describe your relationship with the people who provide related services for your child after you took part in the conflict resolution procedure ?

1	2	3	4	5
very poor	poor	average	good	very good

Section Three

Section Three asks you to:

1. identify the **results** of the conflict resolution procedure that you used.
2. give information about your **satisfaction** with these results, as well as your satisfaction with the roles played by the participants in these procedures.
3. rate the **financial** and **emotional costs** of taking part in one of these procedures.

In Section Three, except for items 24 and 26 you are asked to rate your answers on a five point scale, with 1 showing very low satisfaction and 5 showing very high satisfaction.

1	2	3	4	5
very low	low	moderate	high	very high

For Example: How would you rate your satisfaction with your child's school performance?

1	(2)	3	4	5
very low	low	moderate	high	very high

In this example, the person who answered this question showed low satisfaction with his/her child's school performance by circling the number 2.

24. Which one of the statements below best describes the result of the conflict resolution procedure ?

___ our child's identification, evaluation, placement, education, or provision or related services remained the same.
___ our child's identification, evaluation, placement, education, or provision of related services was changed.

25. How would you rate your level of satisfaction with this result indicated in item 24?

1	2	3	4	5
very low	low	moderate	high	very high

26. How would you rate your level of satisfaction with the role you played in the conflict resolution procedure ?

1	2	3	4	5
very low	low	moderate	high	very high

27. How would you rate your level of satisfaction with the role played by the **due process hearing officer** or **mediator** ?

1	2	3	4	5
very low	low	moderate	high	very high

28. How would your rate your overall level of satisfaction with the conflict resolution procedure in which you participated?

1	2	3	4	5
very low	low	moderate	high	very high

29. How would you rate the financial costs involved in taking part in the conflict resolution procedure ?

1	2	3	4	5
very low	low	moderate	high	very high

30. How would you rate the direct emotional costs to you, as a parent(s), of taking part in the conflict resolution procedure ?

1	2	3	4	5
very low	low	moderate	high	very high

31. How would you rate the emotional costs to your entire family of taking part in the conflict resolution procedure ?

1	2	3	4	5
very low	low	moderate	high	very high

32. What would you rate the likelihood that you would use this same method of conflict resolution again if the need arose ?

1	2	3	4	5
very low	low	moderate	high	very high

33. Using only a few words, please list up to three reasons why you were satisfied and/or dissatisfied with the conflict resolution procedure that you used?

Satisfied	Dissatisfied
_____	_____
_____	_____
_____	_____

Section Four

Section Four has two major purposes:

1. to gather information about your use of, and satisfaction with any available outside support in your preparation for and participation in either the due process hearing or the mediation procedure.
2. to investigate the use made of appeals after a decision is rendered in the due process hearing.

Please read each of the items in this section carefully and then show your answer by following the directions provided .

34. What type(s) of outside support did you use in your preparation for either the due process hearing or the mediation procedure? (check all that apply)

__no outside support
__knowledgeable friend
__representative of a **parent organization**
__representative of an **advocacy organization**
__**legal representation**
__other (please identify)_____

35. What type(s) of outside support did you use while you took part in the due process hearing or the mediation procedure ? (check all that apply)

__no outside support
__knowledgeable friend
__representative of a parent organization
__representative of an advocacy organization
__legal representation
__other (please identify)_____

36. If you had outside support of some type, how did you find out that this help was available ? (check all that apply)

__from the school
__from friends
__from a parent organization
__from an advocacy organization
__other (please identify)_____

37. If you did not have outside support of some type, what kept you from having it? (check all that apply)

__felt it was unnecessary
__was unaware it was available
__was unable financially
__other (please identify)_____

38. How would your rate your level of satisfaction with the support provided you in preparation for the procedure ? (circle one)

1	2	3	4	5
very low	low	moderate	high	very high

39. How would you rate your level of satisfaction with the support provided you during participation in the procedure ? (circle one)

1	2	3	4	5
very low	low	moderate	high	very high

40. How would you rate your level of satisfaction with the length of time it took to solve the conflict with the school ? (circle one)

1	2	3	4	5
very low	low	moderate	high	very high

41. If you took part in a due process hearing, did you **appeal** the results of the due process hearing (check one)
__Yes
__No

42. If you answered yes to question 41, to whom did you appeal? (you may check more than one)
__**State Education Agency**
__**State Court**
__**Federal Court**

Section Five

Section Five is the final section of this survey. This section asks for information about your family. This information is very important because it will help us have an overall picture of the use of the due process hearing or the mediation procedure. The more information that we have in this section, the more we will be able to assure that the rights provided are in effect for all children with handicaps and their parents.

In Section Five, you are asked to show your answers to items 43 and 46 by writing on the line(s) provided. For items 44 and 45, you are asked to show your answers by placing a check √ in the space next to the correct level.

43. In what state do you reside ? _____

44. Family Income level: Which category describes your family (check one category)
Under $15,000_____
$15,000-$30,000___
$31,000-$45,000___
$46,000-$60,000___
$61,000-$75,000___
$76,000-$90,000___
Over $90,000_____

45. Please show the highest educational level completed by the parent(s) who took part in either the due process hearing or the mediation procedure.

Mother (check one)	Father (check one)
Elementary School____	Elementary School____
Junior High School___	Junior High School____
High School_____	High School_____
College or Technical School___	College or Technical School_____
Post-Graduate School_____	Post-Graduate School_____

46. Please describe the occupation or type of work performed by each parent who took part in either the due process hearing or the mediation procedure. (You may list the job title, such as carpenter, teacher, homemaker, lawyer, etc., or describe the type of work performed, such as operates heavy machinery, works in the home, etc.)

Mother _____

_____

Father _____

_____

ON THE NEXT PAGE, YOU ARE ASKED TO CHECK THE APPROPRIATE BOX AND INDICATE IF YOU WOULD OR WOULD NOT LIKE TO RECEIVE A COPY OF THE SURVEY RESULTS, AND TO PROVIDE US WITH YOUR MAILING ADDRESS FOR THESE RESULTS. **THIS PAGE WILL BE KEPT SEPARATE FROM THE REST OF THE SURVEY IN ORDER TO ASSURE YOUR CONFIDENTIALITY.**

PLEASE CHECK THE APPROPRIATE BOX:

__ I would like to receive a copy of survey results
__ I would not like to receive a copy of survey results

MAILING ADDRESS IF YOU WANT TO RECEIVE A COPY OF SURVEY RESULTS:

_____

_____

_____

THANK YOU FOR YOUR VOLUNTARY HELP AND COOPERATION!!!!!!!!!!

APPENDIX E

Glossary

GLOSSARY

The terms in this Glossary have been put in order so that they correspond to the order that they are used in the body of the survey. Also, the terms used in the body of the survey have been printed in **boldface** the first time that they are used.

Please feel free to pull out this section for easy reference

Method of Conflict Resolution : The method used to solve the problem between the parents and the school, in this case either the due process hearing or the mediation procedure.

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Evaluation Issues: Issues related to the individualized testing or assessment of a child for special education purposes, usually to determine if the child needs or is receiving special education.

Placement Issues: Issues related to the school or class placement of a child recommended for or receiving special education services.

Appropriate Education: The provision of an education that is appropriate to a child's specific special education needs. Appropriate education typically involves personalized instruction with sufficient related services to permit the child to benefit educationally from the instruction, even if the child is not achieving to his/her maximum potential. Often, appropriate education means the provision of special education services as written in the IEP.

Related Services: Transportation and other developmental, corrective and supportive services necessary to assist a child to benefit from special education. These include: speech pathology, audiology, psychological services, physical and occupational therapy, recreation,early identification and assessment of disability, counseling services, and medical services for diagnostic or evaluation purposes. These also include school health services, social work services in the schools, and parent counseling and/or training.

Mild: Independent or semi-independent functioning; having basic social and academic skills necessary to cope with daily living; assuming major responsibility for many of his/her own actions.

Moderate: Semi-dependent or dependent functioning; having limited social and academic skills necessary to cope with daily living; unable to assume major responsibility for many of his/her own actions.

Severe: Dependent functioning; having extremely limited social and academic skills necessary to cope with daily living; unable to assume responsibility for many of his/her own actions.

Grade Level: The grade in school in which a child is placed and/or the level at which a child would be placed according to his/her age.

Full-time Regular Class: The child spends 100 percent of his/her time in a regular (non-special education) classroom.

Consultative Services: Services that are provided on a one-to-one basis such as, speech, occupational, physical therapies, etc.

Part-time Regular Class: The child spends less than 100 percent of his/her time in a regular classroom and for the rest of the time receives some type of special education services in a different setting.

Learning Center/Resource Room: The child is placed not only in a regular classroom but also in a special education classroom for part of the day for remedial or supplemental instruction.

Self-contained Special Class: An educational setting where all services are provided to the child in a special education classroom with no services provided during any part of the day in regular classes.

Interpersonal Relationship: A relationship between individuals. For example, how people get along with each other.

Classroom Teacher: The teacher who has major and direct responsibility for providing services to a child.

School District Administration: The school district superintendent, director of special education, or building level principal, etc.

Result: The result of the due process hearing or the mediation procedure. For example, what happened in relation to the child's identification, evaluation, placement,or provision of an appropriate education or related services.

Satisfaction: The extent to which you were pleased with the process (either the due process hearing or the mediation procedure) and/or with the result of such a process.

Due Process Hearing Officer: The individual who conducts the due process hearing and makes the decision based on the evidence presented by both parties.

Mediator: The individual who works with the parties in conflict so they can reach an agreement acceptable to both the parents and the school.

Financial Costs: Dollar expenses directly related to preparing for or taking part in the dueprocess hearing or the mediation procedure.

Emotional Costs: Costs to the child, parent, and/or other family members because of the stress of taking part in the due process hearing of the mediation procedure.

Parent Organization: An organization of and for parents concerned with the effective functioning of the schools.

Advocacy Organization: An organization concerned with the civil,legal, and educational rights of people with handicapping conditions, and with the rights available to their families

Legal Representation: Having an attorney represent one of the parties in the due process hearing or the mediation procedure.

Appeal: Taking the decision reached in either the due process hearing or the mediation procedure to a higher authority such as a state education agency, a state or a federal court.

State Education Agency: The State Department of Education, State Department of Special Education, etc.

State Court: Courts where state-oriented legal issues are tried; can be trial, appeals, or state supreme courts

Federal Court: The courts where federal-oriented legal issues are tried; can be district courts, circuit courts of appeals, or the U.S. Supreme Court.

APPENDIX F

State Level Participation Response Sheet

MEDIATION PROJECT
Department of Special Education
3150 Haworth Hall
University of Kansas Lawrence, KS 66045
(913)864-4954, 4364

Inside Address

November 24, 1986

Dear Sir:

The Special Education Department at the University of Kansas has received federal funding to undertake reseach into the effectiveness of mediation as an alternative to the due process hearing in special education. The principal investigators involved in this study are H.R.Turnbull and Kathleen McGinley.

We have developed a survey to measure parent satisfaction with either the due process hearing or the mediation procedure and to compare parent satisfaction in relation to six specific variables. For your information, we have enclosed a copy of this survey in its present draft form, a copy of the letter which would accompany the survey to parents, and an explanation of the purposes, and procedure of our project.

At the present time, we are attempting to establish a sample population. In doing so, we are contacting those organizations who have active contact with parents of students with handicapping conditions, and who may have access to parents who have taken part in either the due process hearing or the mediation procedure.

We are attempting to get a realistic picture of what parents, and what issues, etc. are involved in the decision to seek some type of conflict resolution procedure. We have written to ARCs, UCPs, Protection and Advcacy Offices, ACLD chapters, TASH Chapters, and State Departments of Education,etc. in our attempt to make sure that all disability areas are equally well represented.

If you feel that you have families who would take part in this study, we would be able to send you the necessary materials, as well as to cover postage costs in relation to the distribution of both letters and surveys.

We really feel that this research has the potential to favorably impact a wide variety of individuals and associations, and to demonstrate just how effectively the due process procedural safeguards of PL 94-142 are being implemented.

For your convenience in replying, we have enclosed a stamped self-addressed envelope, as well as a check-off sheet indicating if you could take part in our study, and the number of surveys which you could distribute.

Your cooperation at any level is greatly appreciated. Thank you again for your time.

Sincerely,

H.R. Trunbull, III

Kathleen H. McGinley

Organization Name:_____

Organization Address:_____

Phone:_____

We will be able to participate in your survey_____
We would like _____ surveys, letters, etc.

We will <u>not</u> be able to participate in your survey____

APPENDIX G

Survey Items and Their Relationship to Dependent and Independent Variables

SURVEY ITEMS AND THEIR RELATIONSHIP TO
DEPENDENT AND INDEPENDENT VARIABLES

The Dependent Variables are:	satifaction with process satisfaction with outcome of process
The Independent Variables are:	conflict resolution procedure nature of the issue which led to the conflict nature/severity of handicapping condition age of the child interpersonal relationships socio-economic status
Additional Variables:	Outside Support Financial Cost Emotional Cost

Dependent Variables

Satisfaction with Process:	26, Level of Satis. with your role 27, Level of Satis. with role of mediator or DPH Officer 28, Overall level of Satis. 29, Rate financial costs 30, Rate emotional costs to parents 31, Rate emotional costs to family 32, Liklihood of reuse 33, Three reasons most satisfied; three reasons least satisfied 35, Outside support in CR procedure 39, Satisfaction with Support in CR procedure 40, Satisfaction with Length of Procedure
Satisfaction with Outcome:	24, Result of CR procedure 25, Level of satisfaction with result 32, Likihood of Reuse 33, Three reasons most satisfied; three reasons least satisfied 41, Did you appeal 42, Appeal to whom

Independent Variables

Conflict Resolution Procedure:	1, Method of CR
Nature of Issue:	2, Major issue
Nature/Severity:	3, Identified categories 4, Severity
Age:	6, Child's age 7, Grade level
SES:	44, Family income level 45, Educational Level-Mother/Father 46, Occupational Group-Mother/Father
Interpersonal Relationship-Child:	12, Child/Teacher-Before 13, Child/Teacher-During 14, Child/Teacher-After
Interpersonal Relationship-Parent:	15, Parent/Teacher-Before 16, Parent/Teacher-During 17, Parent/Teacher-After 18, Parent/Admin-Before 19, Parent/Admin-During 20, Parent/Admin-After 21, Parent/RS-Before 22, Parent/RS-During 23, Parent/RS-After

Additional Variables

Outside Support:	34, Outside support in preparation 35, Outside support in CR procedure 36, How outside support acquired 37, Why no outside support 38, Satisfaction with support in preparation 39, Satisfaction with support in CR procedure
Financial Cost:	29, Rate Financial Costs
Emotional Cost:	30, Rate emotional costs to parents 31, Rate emotional costs to family

Other Information

Placement:	8, School placement-Before 9, School placement-After 10, Class placement-Before 11, Class Placement-After
Demographics:	5, Child's sex 43, State of Residence

APPENDIX H

Survey Items and Their Relationship to Characteristics of Mediation

SURVEY ITEMS AND THEIR RELATIONSHIP
TO PURPORTED CHARACTERISTICS OF MEDIATION

A. Maintains the decision-making power with the parties involved in the conflict allowing them to reach a mutual decision to a mutual problem.

8, School placement-Before
9, School placement-After
10, Class placement-Before
11, Class placement-After
24, Result of CR procedure
25, Satisfaction with result
26, Satisfaction with your role
27, Satisfaction with their role
28, Overall level of satisfaction
33, Three reasons for satisfaction, three reasons for dissatisfaction
38, Level of satisfaction with outside support-in preparation
39, Level of satisfaction with outside support-in procedure
41, Did you appeal
42, To whom appeal

B. Fosters the development of communication and problem-solving skills necessary to maintain a positive working relationship supported by the mutual goal of appropriate education for the child.

12, Child/Teacher-Before
13, Child/Teacher-During
14, Child/Teacher-After
15, Parent/Teacher-During
16, Parent/Teacher-Before
17, Parent/Teacher-After
18, Parent/Admin-Before
19, Parent/Admin-During
20, Parent/Admin-After
21, Parent/RS-Before
22, Parent/RS-During
23, Parent/RS-After
33, Three reasons for satisfaction, three reasons for dissatisfaction
41, Did you appeal
42, Appeal to whom

C. Affords the opportunity to exercise due process for reasonable financial and emotional costs.

29, Rate financial costs
30, Rate emotional cost/parents
31, Rate emotional costs/family

32, Liklihood of re-use
40, Level of satisfaction with length

D. Provides accessibility to all parents of children with disabilities.

34, Outside support in preparation
35, Outside support in CR
36, How found outside support
37, Why no outside support
44, Income level
45, Educational Level, Mother and Father
46, Occupational Level, Mother and Father

APPENDIX I

Data Analysis Code Book

Code Book
Mediation Effectiveness Project
March 1987

The data for this study is based on the responses made to the Parent Satisfaction Survey developed through the Mediation Effectiveness Poject of the Department of Special Education at the University of Kansas. The subjects were parents of a child with a handicapping condition who had participated in one/more of several types of conflict resolution procedures utilized in special education disputes. There were a total of 89 surveys included.

The results are on file in the Mediation Effectiveness Project Office-Annex 167- West Campus. They were keypunched by the staff of the Computing Center. Since there is only one survey per family responding, there are 89 cards. They are stored on the file MEDIATION.

Kathleen McGinley analyzed this data for the Mediation Effectiveness Project.

All missing data has been recorded as blanks.

FORTRAN FORMAT

(F2.0,F1.0,F3.0,F1.0,F3.0,F4.0,2F1.0,F2.0,26F1.0,2F6.0,F4.0,F2.0,4F1.0,F3.0,3F1.0,2F3.0)

Parent Satisfaction Survey

Var. Label	Seq.Col.	Format	Description
STATE	1-2	F2.0	STATE
ORG	3	F1.0	ORGANIZATION
CASE	4-6	F3.0	CASE NUMBER
CRMTHD	7	F1.0	CONFLICT RESOLUTION MTHD
MAJISS	8-10	F3.0	MAJOR ISSUE*(3)
IDEN	11-14	F4.0	IDENTIFIED CATEGORIES*(3)
SEV	15	F1.0	SEVERITY
SEX	16	F1.0	SEX
AGE	17-18	F2.0	AGE
GRLEV	19	F1.0	GRADE LEVEL
SCHB	20	F1.0	SCHOOL PLACEMT BEFORE
SCHA	21	F1.0	SCHOOL PLACEMT AFTER
CLB	22	F1.0	CLASS PLACEMT BEFORE
CLA	23	F1.0	CLASS PLACEMT AFTER
CHRELB	24	F1.0	CHILD REL TEACH BEFORE
CHRELD	25	F1.0	CHILD REL TEACH DURING
CHRELA	26	F1.0	CHILD REL TEACH AFTER
PRELTB	27	F1.0	PARENT REL TEACH BEFORE
PRELTD	28	F1.0	PARENT REL TEACH DURING
PRELTA	29	F1.0	PARENT REL TEACH AFTER
PRELAB	30	F1.0	PARENT REL ADMIN BEFORE
PRELAD	31	F1.0	PARENT REL ADMIN DURING
PRELAA	32	F1.0	PARENT REL ADMIN AFTER
PRELRSB	33	F1.0	PARENT REL RESER BEFORE
PRELRSD	34	F1.0	PARENT REL RESER DURING
PRELRSA	35	F1.0	PARENT REL RESER AFTER
RESULT	36	F1.0	RESULT OF CONFLICT RES
RESSAT	37	F1.0	RESULT SATISFACTION
ROLESATP	38	F1.0	ROLE SATISFACTION PARENT
ROLESATO	39	F1.0	ROLE SATISFACTION DPHOMED
SATOVER	40	F1.0	SATIFACTION OVERALL
FINCOST	41	F1.0	FINANCIAL COST
PEMOCOST	42	F1.0	PARENT EMOTIONAL COST
FEMOCOST	43	F1.0	FAMILY EMOTIONAL COST
REUSE	44	F1.0	REUSE
PREPSUP	45-50	F6.0	PREPARATION SUPPORT
CRSUP	51-56	F6.0	CONFLICT RES SUPPORT
SUPSOUR	57-60	F4.0	SUPPORT SOURCE
SUPNONE	61-62	F2.0	SUPPORT NONE REASON
PREPSAT	63	F1.0	PREPARATION SATISFACTION
CRSAT	64	F1.0	CONFLICT RES SATISFACTION
TIMESAT	65	F1.0	LENGTH TIME SATIFACTION
APP	66	F1.0	APPEAL AFTER DPH
APPSITE	67-69	F3.0	APPEAL SITE
INCOME	70	F1.0	INCOME LEVEL
EDLEVM	71	F1.0	EDUCATION LEVEL MOTHER
EDLEVF	72	F1.0	EDUCATION LEVEL FATHER
OCLEVF	73-75	F3.0	OCCUPATIONAL LEVEL MOTHER
OCLEVM	76-78	F3.0	OCCUPATIONAL LEVEL FATHER

(F2.0,F1.0,F3.0,F1.0,F3.0,F4.0,2F1.0,F2.0,26F1.0,2F6.0,F4.0,F2.0,
4F1.0,F3.0,3F1.0,2F3.0)

CODING INFORMATION

STATE

1	MASSACHUSETTES
2	MAINE
3	NEW JERSEY
4	CONNECTICUT
5	CALIFORNIA
6	OKLAHOMA
7	IOWA
8	ILLINOIS
9	OREGON
0	FLORIDA

ORGANIZATION

1	DEPARTMENT OF EDUCATION-STATE
2	ASSOCIATION FOR RETARDED CITIZENS
3	ASSOCIATION FOR CHILDREN WITH LD
4	PROTECTION AND ADVOCACY AGENCY
5	LOCAL SCHOOL DISTRICT
6	THE ASSOCIATION FOR PERSONS WITH SEVHCS

SURVEY NUMBER

MIN	MAX
01	115

CONFLICT RESOLUTION METHOD

1	MEDIATION
2	MEDIATION BEFORE DUE PROCESS HEARING
3	DUE PROCESS HEARING
4	MULTIPLE MTHDS OF CONFLICT RESOLUTION
5	OTHER

MAJOR ISSUE

(DECISION RULE-CODE UP TO THREE, OVER THREE SELECTION BECOMES A 7-MORE THAN THREE)

1	IDENTIFICATION
2	EVALUATION
3	PLACEMENT
4	APPROPRIATE EDUCATION
5	RELATED SERVICES
6	OTHER
7	MORE THAN THREE

IDENTIFIED CATEGORY (DECISION RULE-CODE A MAXIMUM OF THREE CHOICES)

1 VISUALLY IMPAIRED
2 HEARING IMPAIRED
3 SPEECH IMPAIRED
4 PHYSICALLY IMPAIRED
5 MENTAL RETARDATION
6 EMOTIONAL DISTURBANCE & AUTISM
7 LEARNING DISABILITIES AND NEUROLOGICALLY IMPAIRED
8 MULTIPLY HANDICAPPED
9 NOT CATEGORIZED
0 OTHER (TOURETTES, ADO,ETC...

SEVERITY

1 MILD
2 MODERATE
3 SEVERE

SEX

1 MALE
2 FEMALE

AGE (DECISION RULE-ROUND UP)

GRADE LEVEL

1 PRESCHOOL
2 PRIMARY (K-3)
3 INTERMEDIATE (4-6)
4 JUNIOR HIGH SCHOOL (7-9)
5 SENIOR HIGH SCHOOL (10-12)

SCHOOL PLACEMENT BEFORE

1 PUBLIC DAY SCHOOL
2 PRIVATE DAY SCHOOL
3 PUBLIC RESIDENTIAL SCHOOL
4 PRIVATE RESIDENTIAL SCHOOL
5 HOMEBOUND
6 NONE

SCHOOL PLACEMENT AFTER

1 PUBLIC DAY SCHOOL
2 PRIVATE DAY SCHOOL
3 PUBLIC RESIDENTIAL SCHOOL
4 PRIVATE RESIDENTIAL SCHOOL
5 HOMEBOUND
6 NONE

CLASS PLACEMENT BEFORE

(DECISION RULE-IF RESPONDENT INDICATES PRIVATE SCHOOL PLACEMENT COUNT CLASS PLACEMENT AS 4.

1 FULL-TIME REGULAR CLASS
2 FULL-TIME REGULAR CLASS WITH CONSULTANT SERVICES
3 PART-TIME REGULAR CLASS WITH PART-TIME LEARNING CENTER/RESOURCE ROOM
4 SELF-CONTAINED FULL-TIME SPECIAL CLASS (ALSO COUNT PRIVATE SCHOOL HERE)
5 HOMEBOUND
6 OTHER

CLASS PLACMENT AFTER

(DECISION RULE-IF RESPONDENT INDICATES PRIVATE SCHOOL PLACEMENT COUNT CLASS PLACEMENT AS 4.)

1 FULL-TIME REGULAR CLASS
2 FULL-TIME REGULAR CLASS WITH CONSULTANT SERVICES
3 PART-TIME REGULAR CLASS WITH PART-TIME LEARNING CENTER/RESOURCE ROOM
4 SELF-CONTAINED FULL-TIME SPECIAL CLASS (ALSO COUNT PRIVATE SCHOOL HERE)
5 HOMEBOUND
6 OTHER

DECISION RULE-IN ALL LIKERT-TYPE RESPONSES, IF A RESPONDENT CIRCLES TWO OPTIONS, SELECT THE LOWER SELECTION)

CHILD'S RELATIONSHIP WITH TEACHER BEFORE

1 VERY POOR
2 POOR
3 AVERAGE
4 GOOD
5 VERY GOOD

CHILD'S RELATIONSHIP WITH TEACHER DURING

1 VERY POOR
2 POOR
3 AVERAGE
4 GOOD
5 VERY GOOD

CHILD'S RELATIONSHIP WITH TEACHER AFTER

1 VERY POOR
2 POOR
3 AVERAGE
4 GOOD
5 VERY GOOD

PARENT'S RELATIONSHIP WITH TEACHER BEFORE	1	VERY POOR
	2	POOR
	3	AVERAGE
	4	GOOD
	5	VERY GOOD
PARENT'S RELATIONSHIP WITH TEACHER DURING	1	VERY POOR
	2	POOR
	3	AVERAGE
	4	GOOD
	5	VERY GOOD
PARENT'S RELATIONSHIP WITH TEACHER AFTER	1	VERY POOR
	2	POOR
	3	AVERAGE
	4	GOOD
	5	VERY GOOD
PARENT'S RELATIONSHIP WITH ADMIN BEFORE	1	VERY POOR
	2	POOR
	3	AVERAGE
	4	GOOD
	5	VERY GOOD
PARENT'S RELATIONSHIP WITH ADMIN AFTER	1	VERY POOR
	2	POOR
	3	AVERAGE
	4	GOOD
	5	VERY GOOD
PARENT'S RELATIONSHIP WITH RELSERV BEFORE	1	VERY POOR
	2	POOR
	3	AVERAGE
	4	GOOD
	5	VERY GOOD
PARENT'S RELATIONSHIP WITH RELSERV DURING	1	VERY POOR
	2	POOR
	3	AVERAGE
	4	GOOD
	5	VERY GOOD
PARENT'S RELATIONSHIP WITH RELSERV AFTER	1	VERY POOR
	2	POOR
	3	AVERAGE
	4	GOOD
	5	VERY GOOD

RESULT OF CONFLICT RESOLUTION PROCEDURE	1	IDENTIFICATION, EVALUATION, PLACEMENT, RELATED SERVICES REMAINED THE SAME.
	2	IDENTIFICATION, EVALUATION, PLACEMENT, OR RELATED SERVICES WAS CHANGED

DECISION RULE-IN ALL LIKERT-TYPE RESPONSES, IF A RESPONDENT CIRCLES TWO OPTIONS, SELECT THE LOWER SELECTION)

PARENT LEVEL OF SATISFACTION WITH RESULT	1	VERY LOW
	2	LOW
	3	MODERATE
	4	HIGH
	5	VERY HIGH

PARENT LEVEL OF SATISFACTION WITH ROLE PLAYED	1	VERY LOW
	2	LOW
	3	MODERATE
	4	HIGH
	5	VERY HIGH

PARENT LEVEL OF SATISFACTION WITH ROLE OF DPH OR MEDIATOR	1	VERY LOW
	2	LOW
	3	MODERATE
	4	HIGH
	5	VERY HIGH

OVERALL LEVEL OF SATISFACTION WITH CONFLICT RESOLUTION METHOD	1	VERY LOW
	2	LOW
	3	MODERATE
	4	HIGH
	5	VERY HIGH

FINANCIAL COSTS INVOLVED	1	VERY LOW
	2	LOW
	3	MODERATE
	4	HIGH
	5	VERY HIGH

PARENT'S EMOTIONAL COSTS

1	VERY LOW
2	LOW
3	MODERATE
4	HIGH
5	VERY HIGH

FAMILY EMOTIONAL COSTS

1	VERY LOW
2	LOW
3	MODERATE
4	HIGH
5	VERY HIGH

LIKLIHOOD OF REUSE

1	VERY LOW
2	LOW
3	MODERATE
4	HIGH
5	VERY HIGH

TYPE OF OUTSIDE SUPPORT-PREPARATION (DECISION RULE-COUNT UP TO FIVE RESPONSES)

1	NO OUTSIDE SUPPORT
2	KNOWLEDGEABLE FRIEND
3	REPRESENTATIVE OF PARENT ORGANIZATION
4	REPRESENTATIVE OF ADVOCACY ORGANIZATION
5	LEGAL REPRESENTATION
6	FAMILY
7	OTHER (MEDIATOR, CIVIL RIGHTS, ETC.)
8	DOCTORS
9	SCHOOL PERSONNEL
0	MINISTER

TYPE OF OUTSIDE SUPPORT-PROCEDURE (DECISION RULE-COUNT UP TO FIVE RESPONSES)

1	NO OUTSIDE SUPPORT
2	KNOWLEDGEABLE FRIEND
3	REPRESENTATIVE OF PARENT ORGANIZATION
4	REPRESENTATIVE OF ADVOCACY ORGANIZATION
5	LEGAL REPRESENTATION
6	FAMILY
7	OTHER (MEDIATOR, CIVIL RIGHTS, ETC.)
8	DOCTORS
9	SCHOOL PERSONNEL
0	MINISTER

HOW FOUND OUTSIDE SUPPORT (DECISION RULE-COUNT UP TO FIVE RESPONSES)

1	THE SCHOOL
2	FRIENDS
3	A PARENT ORGANIZATION
4	AN ADVOCACY ORGANIZATION
5	FAMILY
6	OTHER
8	DOCTORS
9	SELF
0	MINISTER
A	LEGAL SERVICES

WHY NO OUTSIDE SUPPORT (DECISION RULE-COUNT UP TO TWO RESPONSES)

1	FELT IT WAS UNNECESSARY
2	WAS UNAWARE IT WAS AVAILABLE
3	WAS FINANCIALLY UNABLE
4	OTHER

DECISION RULE-IN ALL LIKERT-TYPE RESPONSES, IF A RESPONDENT CIRCLES TWO OPTIONS, SELECT THE LOWER SELECTION)

LEVEL OF SATISFACTION WITH SUPPORT IN PREPARATION

1	VERY LOW
2	LOW
3	MODERATE
4	HIGH
5	VERY HIGH

LEVEL OF SATISFACTION WITH SUPPORT IN CONFLICT RES MTHD

1	VERY LOW
2	LOW
3	MODERATE
4	HIGH
5	VERY HIGH

LEVEL OF SATISFACTION WITH LENGTH OF TIME

1	VERY LOW
2	LOW
3	MODERATE
4	HIGH
5	VERY HIGH

DID YOU APPEAL IF YOU HAD A DUE PROCESS HEARING

1	YES
2	NO

TO WHOM APPEAL MADE	(DECISION RULE-CAN CHECK ALL THREE)	
	1	STATE EDUCATIONAL AGENCY
	2	STATE COURT
	3	FEDERAL COURT
FAMILY INCOME LEVEL	1	<$15,000
	2	$15,000-$30,000
	3	$31,000-$45,000
	4	$46,000-$60,000
	5	$61,000-$75,000
	6	$76,000-$90,000
	7	OVER $90,000
HIGHEST EDUCATIONAL LEVEL MOTHER	1	ELEMENTARY
	2	JUNIOR HIGH SCHOOL
	3	SENIOR HIGH SCHOOL
	4	COLLEGE-TECHNICAL SCHOOL
	5	POST-GRADUATE SCHOOL
HIGHEST EDUCATIONAL LEVEL FATHER	1	ELEMENTARY
	2	JUNIOR HIGH SCHOOL
	3	SENIOR HIGH SCHOOL
	4	COLLEGE-TECHNICAL SCHOOL
	5	POST-GRADUATE SCHOOL
OCCUPATIONAL LEVEL MOTHER	109	LIBRARY AND ARCHIVAL SERVICES
	075	REGISTERED NURSES
	201	SECRETARIES
	189	MISC MANAGERS AND OFFICIALS
	092	PRESCHOOL, PRIMARY AND KDG
	001	ARCHITECTUAL OCCUPATIONS
	980	HOMEMAKER
	211	CASHIERS AND TELLERS
	090	COLLEGE AND UNIVERSITY EDUCATION
	981	STUDENT
	099	EDUCATION
	382	JANITORIAL
	151	DANCING
	332	HAIRDRESSERS AND COSMOTOLOGISTS
	100	LIBRARIANS
	251	SALES OCCS BUS AND FINANCIAL SERVICES
	209	STENO, TYPING, FILING AND REL OCCS
	070	PHYSICIANS AND SURGEONS
	213	ELECTRONIC AND ELECTROMECHANICAL DATA PROCESSORS

638	MISCELLANEOUS OCCS IN MACHINE INSTALL AND REPAIR
079	MEDICINE AND HELTH
131	WRITERS
022	CHEMISTRY
199	MISC PROF TECH AND MGERIAL OCCS
186	FINANCE INSUR REAL EST MGMT AND OFFICIALS
094	EDUCATION OF THE HANDICAPPED
078	MEDICAL AND DENTAL TECHNOLOGY
913	PASSENGER TRANSPORTATION OCCS
319	FOOD AND BEVERAGE PREP AND SERV
216	ACCOUNTING AND STATISTICAL CLERK
169	ADMINISTRATIVE SPECIALIZATIONS
187	SERVICE INDUSTRY MGRS AND OFFS
153	ATHLETICS AND SPORTS
195	SOCIAL AND WELFARE WORK
026	COMPUTER OCCUPS SYSTEMS ANALYST
273	SALES TRANSPORTATION EQUIP PARTS AND SERVICE

OCCUPATIONAL LEVEL FATHER

904	TRAILER TRUCK DRIVER
619	MISC METALWORKING OCCUPATIONS
199	MISC PROF TECH AND MGERGIAL OCCS
189	MISC MANAGERS AND OFFICIALS
186	FINANCE INSUR REAL EST MGMT AND OFFICIALS
740	PAINTERS BRUSH
019	ENGINEERING AND SURVEYING
099	EDUCATION
869	MISC CONSTRUCTION OCCUPATIONS
600	MACHINIEST AND RELATED OCCS
187	SERVICE INDUSTRY MGRS AND OFFCS
097	VOCATIONAL EDUCATION
070	PHYSICIANS AND SURGEONS
110	LAWYERS
375	POLICE OFFICERS DETECTIVES PUBLIC SERVICE
026	COMPUTER OCCS SYSTEMS ANALYST
862	PLUMBERS GAS STEAM FITTERS AND RELATED OCCUPATIONS
163	SALES DISTRIBUTION MGMT OCCS
160	ACCOUNTANTS AND AUDITORS
168	INSPECTORS INVESTIGATORS MGERIAL AND PUBLIC SERVICE
262	SALES OCCUPATIONS CHEMS DRUGS SUNDRIES
801	FITTING BOLTING SCREWING REL OCCS
693	MODELMKERS PATTERNMKERS REL OCCS
230	HAND DELIVERY AND DISTRIBUTION
421	GENERAL FARMING
410	DOMESTIC ANIMAL FARMING OCCS
273	SALES TRANSPORTATION EQUIP PARTS SERVICE

620	MOTOR VEH AND ENGINEERING EQUIP MECHANIC AND REPAIRS
831	ASSEMBLY INSTALL REPAIR TRANS DIST LINES AND CIRCUITS
120	CLERGY
161	BUDGET AND MGMT SYSTEMS ANALYSIS
030	NON SPECIFIC SCIENTIST

APPENDIX J

Parent Response
Satisfaction/Dissatisfaction

PARENT SATISFACTION SURVEY COMMENTS

REASONS FOR SATISFIED	REASONS FOR DISSATISFIED
Advocate extremely capable. Expedient time in resolution caring people. "No complaints about advocacy dept."	School district cooperation very negative.
Got desired placement financial costs paid	Parents not aware of rights. Shouldn't have been necessary. School administration uses their increased knowledges. and money to fight lesser-prepared parents.
Final given reports	Getting information from school records and reports. Length of time. Method of evaluation report.
Were able to get correct placement for one son. Informal meeting saved us from having to take further legal action.	
Quick to solution. Less threatening than hearing. No lose situation. Negotiation services fair.	
Had to hire a lawyer to force them to do what law said, but by next year will be fully mainstreamed in regular education with support services was worth it.	If you are too poor to get a lawyer or too uneducated to knowdemand your rights--your child loses so doesn't seem fair to kids.
	Parents thoughts and opinions unimportant. Outcome predetermined from beginning.
Child was placed in program	Did not receive sign language. Did not receive appropriate services. 2 hour trip one-way not reasonable.
my son took part-testified and took part. Our story was heard.	We lost. Appeal process seemed to have no teeth. Hearing Officer seemed not to know law.

PARENT SATISFACTION SURVEY COMMENTS

REASONS FOR SATISFIED	REASONS FOR DISSATISFIED
Received help for my child. learned about disabilities awareness to laws	Didn't want to change schools. Feet "world" against us. Technical jargon.
Result Support of Public Advocate	
Excellent advocate Caring judges Cooperative special ed services people.	Mediation doesn't hold weight with school districts--local or state level. The law is clear but implementation is hazardous. Do away with school boards.
	Delays due to school personnel vacation parents need free mediators/representatives.
I knew the law	
Son got placement didn't bend to school's authority.	Cost of testing and lawyer. Breakdown of trust with administration. Realization that "money" not kids counts in education.
Finally diagnosed LD and given adequate program. Not necessary to pay for private education. School system ordered to provide challenging program. Hearing documented proof of mnisplacement-now doing much better.	Hearing officer did not award tuition to LD private day school. Hearing officer cited untru facts. Child identified as Emotionally Handicapped even though Psychologist testified she wasn't.
Son was moved to an excellent special ed. program in a neighboring school.	D.P. procedure was expensive, incredibly time consuming, emotionally exhausting for whole family.
Identified the need	
I won	Expense. Placement of child during hearing length of time.

PARENT SATISFACTION SURVEY COMMENTS

REASONS FOR SATISFIED	REASONS FOR DISSATISFIED
We won	No intermediary system of resolution. School director of education very hostile. Excessive involvement of school board. Lawyer excellerated conflict.
Tried to get right education. Tried to get right physical therapy/occupational therapy.	The word "appropriate" too vague.
Mediator very professional.	Mediator evaluation "screwed up" financial portion.
Hearing officer change for next parent/child	No change for my child. Still had to get my own help. Situation is right back where it was just before conflict.
Additional counseling in school given.	It didn't solve the problem.
	Hearing officer prejudiced. School administration wouldn't admit they were wrong. Placed child in small, crowded, noisy distractive room.
"Room 14" disbanded. Finally knew our rights. Donald's needs finally met.	Child lost school life, is "branded". I am angry and hurt. Appalled that school system is so powerful.
Appropriate placement.	
The school is now teaching him to read.	Son is reading 1st grade level, 5th grade math, and 4th grade all other work.
Received more intensive education. Received consultative services.	May need to use similar methods again when PPT comes around.

PARENT SATISFACTION SURVEY COMMENTS

REASONS FOR SATISFIED	REASONS FOR DISSATISFIED
	Problem not yet resolved. School is playing games, wasting everyone's time.
	They still want our child to fit their program. We shall spend a lot of time moderating.
Received help for my child. Learned about disabilities. Awareness to laws.	Didn't want to change schools. Felt "world" against us. Technical jargon.
Achieved desired placement. Decision made by unbiased/ knowledgeable person proved to school system that our assessment was correct.	Extreme fincial cost. Extreme emotional cost. Extreme time consuming-case prepared.
Child receives LD assistance.	School denies ever saying child was MR. She was placed in MR classroom.
Fair and impartial. Concerned with child's best interest.	Cost and length of hearing had to wait 6 weeks for a decision.
Achieved desired placement.	It took several months. High cost (fees, time off work)
Child identified as LD. Placement in a special school at School Board's expense.	Trying and emotionally very difficult. School board's attitude terrible.
	Burden of proof on parent-must have ridiculously extensive documentation over time. Puts child in an unbearable position.
	Poor administrators-uncooperative and refused to see real issues. Non-realistic solutions for existing problems

PARENT SATISFACTION SURVEY COMMENTS

REASONS FOR SATISFIED	REASONS FOR DISSATISFIED
He stayed where he was.	
	Educators dishonest. Educators would not admit a due process/ mediator's not impartial.
Our attorney. ARC advocacy	Took 6 years before learned of rights. Hearing officer on staff of DOE. Bad feeling between school administration and parents. Obvious hidden agendas.
Child placed in a functional program.	Not allowed to tape meetings. Administration and teachers were prepared. Board of Education didn't care. Administration didn't read IEP's. Administration didn't correspond.
Removed son from Special Education. Teacher was able to get understanding. Was able to get transport to other school.	School allowed unprofessional conduct by teacher. School stopped meeting when teacher questioned. Had to fight to get everything.
Teachers/counselors spoke truthfully against administration. Mediator had control. Caucus was called when necessary	
Teaching method and teacher changed excellent outside testing.	Conflict still exists-no final solution with school.
Desired program granted.	Was an ordeal - had to fight very hard for placement. Program should be 5 days a week versus 3.
Mediator very perceptive child's needs were met	

PARENT SATISFACTION SURVEY COMMENTS

REASONS FOR SATISFIED	REASONS FOR DISSATISFIED
IEP changed to help my child Recovered services previously not given.	Unhappy with placement. Child not challenged.
Proper placement fulfilled. Additional financial support received fair hearing.	
Transferred out of system to new school. City paid for private school at present school he is on grade level with a B average. Caring teachers.	Old school. Took 6 years and a lawyer to make any change. Local system stated that "a 9th grade education is what most kids graduate with."
	Hearing Officer not open to our case and stated this in his opening statement. Hearing Officer refused to allow much of our evidence.
Resulted in ID's & placement	Didn't underly problem with school district. Could happen again with someone else
Cooperative attitude from head special services. Good advocate.	School didn't follow D.P. criterion. Outcomes not binding. Intimidating
Did receive some services. Classroom was changed.	Child lost 4 months time by being in wrong classroom
	Nothing changed in school program. I had to do the school's job as far as further psychological testing.
Received desired placement. Received smaller classroom. Mediator of high quality Mediator was fair, didn't play games.	

PARENT SATISFACTION SURVEY COMMENTS

REASONS FOR SATISFIED	REASONS FOR DISSATISFIED
	Mediator went to lunch with board of education administrator. Mediator stayed with teachers. One sided left in room for 7 hrs. without food or water. "Anone would give up".
	Nothing was gained.
Didn't have to wait long for an appointment. I got more help for him. Teachers, etc. finally acted to give help.	It took all day. Constant arguing. Thought mediator would help more in negotiating with school officials but didn't.
My child was placed. My child is doing well -- is pleased in learning.	Lost time (2 yrs) because of placement - lost grade ground.
Free representation	
	slow
	poor evaluation; did not cover issues; inappropriate procedure.
	poor teachers; poor administration.
	Unhappy with hearing officers.
Results; support; cost	Time taken; It shouldn't have gone that far.
Progress was made. Improved participant understanding assistance of ODDAC	School districts' avoidance of issues; school districts' fear of legal action.

PARENT SATISFACTION SURVEY COMMENTS

REASONS FOR SATISFIED	REASONS FOR DISSATISFIED
Provisions of highly skilled parent advocate. Highly skilled mediator.	Extremely stressful to have to fight for child's basic rights.
	Did not receive the help my child needs.
	Educators dishonest. Educators wouldn't admit mistakes. Due process hearing/mediators not impartial.
Moved quickly. Hearing examiner was excellent.	Cost (noted that they are filing a lawsuit to regain expenses). Emotional stress on family.

APPENDIX K

Field Test Evaluation

FIELD TEST INFORMATION: Mediation/Due process Effectiveness Study

Kathleen H. McGinley, H.R.Turnbull, III, Department of Special Education, The University of Kansas, Lawrence, KS 66045, (913)864-4364; 4954.

The due process hearing historically has been the major avenue used by parents and school districts in the attempt to resolve conflicts which arise in relation to the provision of an appropriate education for the child with a disability. This and the other avialable due process procedures were designed to be a means of harmonizing the separate, but similar, interests of parents and educators. While some positive outcomes have been associated with participation in the due process hearing, critical negative effects have also been cited in the literature. Because of this, the suggestion has been forwarded to investigate the use of consensual methods of conflict resolution as an alternative to the sole reliance on the due process hearing. The use of a mediation procedure as a possible effective alternative has been recommended. However, while the use of the mediation alternative has grown significantly over the past decade, presently being supported in some manner in 38 states, little empirical evidence is available as to its effectiveness as an alternative to the due process hearing in special education.

The Department of Special Education at the University of Kansas has been awarded federal funding to do research into the effectiveness of alternative methods of conflict resolution.The purpose of the proposed project is to provide essential data related to the effectiveness of mediation as an alternative method of conflict resolution. In an attempt to achieve its purpose, the research will determine the relationship between parental satisfaction with the processes of the due process hearing and mediation, as well as parental satisfaction with the outcome(s) of these processes. The strength of the relationship will be measured with respect to six specific variables. These are:

a. the conflict resolution procedure used, either the due process hearing or the mediation procedure;
b. the nature of the problem which caused the conflict;
c. the interpersonal relationships between the parents and the child and a variety of school personnel;
d. the severity of the child's handicapping condition;
e. the age of the child; and
f. the socio-economic status of the child's family.

This research has the potential to be highly responsive to the need for data related to the effectiveness of both of these methods of conflict resolution. It also has the potential to have postive impact on six possible groups of individuals; the child, parents and family members, direct-service school personnel, school districts, state education agencies, and attorneys and representatives of advocacy organizations.

An essential element for the success of this research is to develop and distribute to parents a survey instrument that is appropriate in both content and language. The information which you are being provided includes a draft model of:

-The Parent Satisfaction Survey
-The letter which will accompany this survey
-The Glossary which will be included in the survey.

We are interested in your opinion as to the appropriateness of each of these items. We have listed some specific questions which we have for you, please feel free to respond as you feel necessary.

1. Do the items in the survey relate to variables we are trying to study (such as: satisfaction with each of the processes, satisfaction with the outcomes of these processes, the conflict resolution procedure used-the due process hearing or the mediation procedure, the nature of the conflict, the severity of the child's handicapping condition, the age of the child, parent-child-school personnel interpersonal relationships, and the socio-economic status of the family.)

2. Do the items in the survey ask the information in an clear and understandable way?

3. Are the directions in the survey clear and concise?

4. Do you feel that any of the information asked for in this survey is threatening to parents in any way ?

5. Do you feel that the letter that will be sent with the survey clearly informs the parents of the reasons for and the procedures involved with the survey?

6. Do you feel that the wording of the letter is clear and understandable for the majority of parents?

7. Do you feel that the definitions provided in the Glossary are clearly explained?

Please add any additional comments which you may think are necessary for us to improve the survey, the letter, and/or the glossary in order to make our research more effective.

Thank you for your cooperation.

Kathleen McGinley
H.R. Turnbull, III
Department of Special Education
377 Haworth Hall
University of Kansas
Lawrence, KS 66045
(913)864-4364; 4954

APPENDIX L

Incentive Requests

MEDIATION PROJECT
Department of Special Education
3150 Haworth Hall
University of Kansas, Lawrence, KS 66045
(913)864-4954;4364

Director of Public Relations
McDonald Corporation
McDonald Plaza
Oak Brook, IL 60521

November 5, 1986

Dear Sir:

The Special Education Department at the University of Kansas is attempting to carryout important survey research with parents of children with handicapping conditions. Our research will help us to detemine if both the childrens' and the parents' rights under the law are being protectd, as well as indicating if these children are being provided with an appropriate education no matter where they reside in the United States.

We are aware that in the area of survey research it is possible to increase your response rate if you provide the people surveyed with some small token. A high response rate is essential to the success of this study.

Since the people we will be working with will all be parents of a child with a disability, the opportunity to provide them some small break on the cost of a meal out for their family would be a very positive motivator.

Also, since we are well aware of your participation in and sponsorship of a wide variety of worthwhile causes, and since you have stores located in every part of the nation, we thought we would ask you if you could provide us with some type of meal/drink coupons to enclose with our survey.

We have the funding available to print and distribute the surveys , to analyze the data, and to disseminate the results to the parents and other interested parties, but we are financially unable to include a small token incentive on our own.

Approximately 200 families from around the country will be surveyed. If there is anyway in which you can help us we would be truly grateful.

Thank you for your consideration.

Sincerely,

Kathleen McGinley
Investigator
Mediation Project